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FEDERAL ACCOUNTING OF SEIZED CASH IN FEDERAL AGENCIES

HEARING

BEFORE THE

SUBCOMMITTEE ON FEDERAL SPENDING,
BUDGET, AND ACCOUNTING

OF THE

COMMITTEE ON
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

FIRST SESSION

MARCH 13, 1987

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FEDERAL ACCOUNTING OF SEIZED CASH IN FEDERAL AGENCIES

FRIDAY, MARCH 13, 1987

U.S. Senate,
Subcommittee on Federal Spending,
Budget, and Accounting,
Committee on Governmental Affairs,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:40 a.m., in room SD-342, Dirksen Senate Office Building, Hon. Lawton Chiles, Chairman of the Subcommittee, presiding.

Present: Senators Chiles and Sasser.

OPENING STATEMENT OF SENATOR CHILES

Senator Chiles. Today this Subcommittee will continue hearings to extend our investigation into the accounting and management of seized cash following from criminal activity.

This hearing is a result of an ongoing process that started when I asked the General Accounting Office to conduct an audit and investigation of the storage and disposal of confiscated vessels on the Miami River. Hearings were held on that situation on October 14, 1985. I am happy to note that with the cooperative efforts of the Customs Service, the Miami Management Committee, and the Immigration and Naturalization Service, as well as local officials, the river has been virtually cleared of unwanted vessels. We had over a hundred seized vessels on the river when we started, and we are now down to approximately ten or twelve.

The Miami River is a scenic waterway again and not a floating junkyard. We are not talking about just making the river more accessible or better looking. We found these boats were being stored, and the Government was paying thousands of dollars for the storage fees. In many instances when we were ready to sell the boat, the price received for the boat was less than the storage expense. Time after time, the Federal Government was losing money.

We, at that time, wondered if the problem was beginning and ending with the Miami River. We asked the General Accounting Office to continue its probe into the disposition of seized property, any and all conveyances, businesses, cash, and other seized materials.

Today we are going to hear from the General Accounting Office, the Customs Service and the Drug Enforcement Administration. It is clear that the situation is as bad with the seized cash as it was with boats on the Miami River. The absence of proper management oversight by the proper agencies is startling. The interim report issued by the General Accounting Office on the improper use of seized property in DEA's district office in Dallas demonstrates this is a problem crying out for some sort of management solution.

Some of us, here in the Congress, have fought to increase the enforcement efforts of DEA, Customs, and the Justice Department generally. I am fully aware that the war on drugs needs every soldier, and every soldier needs every weapon. The Comprehensive Crime Control Act of 1984 is a needed and desirable weapon. Every aspect of the act must be used effectively, and this includes the management aspect.

Good management includes good internal controls and proper oversight. The testimony we will hear today leads me to believe that proper management of seized cash may not exist within the very agencies to whom Congress has delegated this important responsibility.

We are not talking about petty cash. We are talking about hundreds of millions of dollars.

We know that we are becoming more effective and we are seizing more cash. The problem could be even larger in the future if we do not correct it now.

We are not talking about misplaced financial records, we are talking about cash that presently is unaccounted for. We are talking about situations where there is no record of the cash, or we do not know where the cash is being stored. We do not know the amount of the seizure. We cannot determine it from the existing records.

We are talking about delays in processing that sometimes take months, even years.

We are talking about taxpayers' dollars being used to pay long-term storage costs for assets whose value continues to erode each day these assets sit unaccounted for. These delays are costly.

They are costly in terms of benefit to the taxpayer. Further, they are costly in getting funds back to local law enforcement agencies under the asset forfeiture fund.

The economic benefits foregone because of these delays are tremendous. For the Customs Department's eighty-one forfeiture cases involving deposit delays $518,849 could have been earned on the money during the time the cash sat in Custom's vaults.

If DEA had the same situation, a total of $1 million could have been earned on that cash.

I had my staff call Tampa and Miami to find out what their police departments could do with $1 million. Their answers are probably reflective of departments around the country.

If the Tampa Police Department had $1 million, it could:

Fund its entire drug education program. That would take $50,000.

Hire four more people to coordinate its crime prevention program, people that they cannot afford to hire now.

Purchase enough bullet-proof vests for its eleven squads. Apparently they have no money so that they only have vests for one squad.

Replace for $150,000, its entire stock of wiretap equipment. According to the Tampa police captain, the department has borrowed equipment that they are now using from Customs and DEA.

If the Miami department had $1 million, it could: replace its entire stock of obsolete vehicles; add thirty-five police officers to its forces; refurbish Miami's whole swat unit; and purchase sixty needed undercover vehicles for drug enforcement.

Alternatively, with $1 million, the Miami Police Department could cover nearly half the cost of overtime for one year. That is an attractive option for them.

Given the additional drug enforcement efforts this year the department in Miami expects to exceed their overtime allocation by $1.5 million.

I have been one of those Members of Congress who has insisted on properly arming DEA, Customs, the Justice Department in the war on drugs. I certainly intend to continue that.

These agencies need the resources to successfully fight the battle. However, we also want to make sure that the spoils of that battle are not wasted. Eliminating waste is the subject of our hearing today.

Our first witnesses will be from the General Accounting Office. Mr. Gene L. Dodaro is Associate Director, General Government Division. He will introduce the people that he has with him.

Mr. Dodaro, we will place your statement[1] in full in the record. If there is some way that you can digest that for us, it will be helpful for our time.

TESTIMONY OF GENE L. DODARO, ASSOCIATE DIRECTOR, GENERAL GOVERNMENT DIVISION, U.S. GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY JAMES R. BLACK, MARIO ARTESIANO, RON VIERECK, AND SEBASTION CORREIRE, GROUP DIRECTOR

Mr. DODARO. Good morning. We are pleased to be here today to discuss our review of the management of seized cash by the Customs Service and the Drug Enforcement Administration, which was undertaken at your request.

With me on my right is Mr. Jim Black, who is in charge of our audit. To my left is Mr. Mario Artesiano and Mr. Ron Viereck, who were responsible for our work in Miami and Los Angeles, respectively.

As you know, Senator, forfeiture law allows the Government to take property including cash that has been illegally used or acquired without compensating the owner. Seizing and forfeiting assets of drug traffickers and organized crime figures have become a key part of Federal enforcement efforts. The Comprehensive Crime Control Act of 1984 expanded the Government's seizure authority and established asset forfeiture funds to finance the management and disposal of seized and forfeited assets.

The resultant increasing volume of seizures heightens the importance of properly managing the program and of maintaining good internal control.

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[1] See p. 33 for Mr. Dodaro's prepared statement with attachments.

Our review shows, however, that such controls over seized and forfeited cash were not adequate. Consequently, millions of dollars were being held unnecessarily in vaults and safety deposit boxes before being deposited into designated Treasury accounts. The delays prevent the Government from obtaining economic benefits from the idle cash and increase the administrative costs and risks in handling, storing, accounting for and safeguarding the cash.

Customs and DEA have begun to take corrective action, but more needs to be done to prevent the problems from recurring.

I will first briefly summarize our review of Customs cash seizure activities and follow with a discussion of DEA's program.

Our review of Customs was conducted in its Miami and Los Angeles districts, which accounted for 60 percent of the $96 million in seized cash estimated to be on hand nationally. At these locations we examined a random sample of 129 cash seizures amounting to about $39 million. Of the 129 cases we reviewed, 107 had unnecessary delays before deposit. To be conservative, we did not include any cases which the Government determined were needed as evidence or any case less than one year old. Also, we computed the delay after allowing 14 days after forfeiture or the decision to deposit the cash.

Senator CHILES. I understand that you did not look at any case in which they said: we may need this money for evidence, so that is why we are having to hold this money.

These cases are after the cash was free from any evidentiary need. It now belonged to the Federal Government, but it was still sitting there idle.

Mr. DODARO. That is correct, Senator.

Senator CHILES. And you said, that of the 129 cases that you looked at, you found a delay in 107 of those cases.

Mr. DODARO. That is correct.

Senator CHILES. Go ahead.

Mr. DODARO. The 107 cases you referred to with deposit delays totaled $32 million of the $39 million for the cases we reviewed. Eighty-one of the 107 cases had delays in depositing cash into the Customs forfeiture fund after forfeiture occurred. The delays varied from two days to almost five years. They occurred on large and small seizure varying from three dollars to $4.2 million.

Senator CHILES. What was the delay on the $4.2 million seizure? How much of a delay?

Mr. ARTESIANO. About 82 days.

Mr. DODARO. Such delays resulted in the Government foregoing economic benefits. For example, we estimate that over one-half million dollars could have been earned on the 81 forfeited seizures had they been promptly deposited.

The remaining 26 of the 107 cases with deposit delays were undergoing forfeiture processing. Cash that is not yet forfeited to the Government should be deposited before forfeiture if the Government determines that the cash is not needed as evidence or there is a court order or written agreement with the petitioner allowing deposit. Although one of these conditions was present in the 26 cases, there were delays exceeding 14 days before the cash was deposited.

There were several causes for the delays. Information to account for the cash and to monitor the status of cases was inadequate.

Also, although Customs established policies and accountability for seized property management, seized cash was inadvertently overlooked. Consequently, there has been a lack of policy and clear lines of responsibility for seized cash management.

Also, Customs practice of depositing non-evidentiary cash pending forfeiture into interest-bearing commercial bank accounts differs from the practice followed by the Department of Justice. Justice deposits such cash into its Seized Asset Deposit Fund, a U.S. Treasury account.

We favor Justice's practice because it gets the money more quickly into a Treasury account, thus providing better control and greater economic benefit.

Customs officials have cooperated fully with us, both at the district and headquarters offices. They have begun to take corrective action to resolve the problems identified. For example, Miami and Los Angeles are now reviewing cases on hand, and they have deposited $27 million during the six months of our audit, as compared to about $9 million for the entire year preceding our review.

Also, Customs has drafted a national policy and established its National Finance Center as the focal point for seized cash management.

Senator CHILES. These corrective procedures have come into place since you started your audit?

Mr. DODARO. That is correct, Senator.

Senator CHILES. Prior to the time that you started your audit, was there any kind of procedure from a tickler file on in which someone said, "every Tuesday let us look and see how much cash we have, and where we can deposit that"?

Mr. DODARO. We have difficulties in obtaining at the national level inventory information on the cash situation. Mr. Artesiano can give you an example of what happened in Miami with those case files.

Mr. ARTESIANO. Periodically, every five or six months Customs fines, penalties, and forfeitures unit, may look at the case to determine its status. But even so, we found that when instructions were given to the custodian to deposit the funds, those instructions were not carried out.

So the follow-up system in terms of a tickler system does not work as often as it should, given the amounts of currencies involved.

Senator CHILES. Did the national office know how much cash the Miami office had on hand? How much the Los Angeles office had on hand? Did they have an inventory?

Mr. DODARO. No, they did not, Senator.

That was one of our major points. In terms of having adequate oversight over the seized cash, a lot hinges upon having good information to be able to monitor the situation. And we did not find that inventory information in place.

At this point, Customs is developing a national inventory system.

We agree with these actions but also recommend that the Customs Commissioner, one, require periodic audits of seized cash; two, establish a seized asset deposit fund for depositing non-evidentiary cash pending forfeiture; and, three, report the seized cash weaknesses under the Federal Managers' Financial Integrity Act until they are corrected.

Now I would like to turn to DEA's program.

Senator CHILES. Just before you do that, I notice that in your table five, under Reasons for Deposit Delay, reason one: custodian did not deposit cash when notified. That was true in 33 cases. Someone would notify the custodian to deposit cash, and he would not do it?

Mr. ARTESIANO. That is correct, Senator. Sometimes, repeated times, the custodian failed to deposit.

Senator CHILES. The records would show that someone had notified the custodian to deposit the cash, and he had not done it?

Mr. ARTESIANO. It is incredible, but basically the situation was, when we went through the files, that there were some instances that the Fines, Penalties, and Forfeitures Unit informed or directed the custodian to deposit. We had notes, memos in the files in these seizures, and the custodian did not take the action promptly, did not deposit for long periods of time.

Senator CHILES. Did you find instances where disciplinary action was taken when someone had failed to deposit the funds or failed to follow the orders that were given?

Mr. ARTESIANO. Not that we noted until recently, there has been a requirement of the custodian responsibilities in Miami now.

Senator CHILES. So, there is some change in that now?

Mr. ARTESIANO. Presently, yes.

Senator CHILES. Then I notice that on the second item FPF delayed or took no action. What is FPF there?

Mr. DODARO. That stands for the Fines, Penalties and Forfeiture Unit the unit responsible for maintaining and processing of the seizure files.

Senator CHILES. FPF delayed or took no action after being notified of forfeiture or non-evidentiary decision in 22 cases. FPF had been told they did not need this money any longer?

Mr. ARTESIANO. That is correct, Senator. Essentially after information came to FPF, such as a court order that the monies had been forfeited or notification that the monies were no longer needed for evidence, there was not a prompt decision on the part of FPF to go ahead and initiate deposit.

Mr. DODARO. One of our points, if I might follow up here, Senator, is that there are numerous people involved, as you could see from this table, in actually executing the program. In that situation, good communication and having some management oversight of the situation is really essential because you have various points where it would break down.

Senator CHILES. Even though someone would notify a custodian, there was no record-keeping system; therefore, that person could not say: well, the custodian did not do what I told him to do, and so I will take some disciplinary action. The national office had no inventory and no record.

Mr. ARTESIANO. I cannot address the national office. At the local level, when we went through the files, it was fairly clear that the Fines, Penalties and Forfeiture Unit, in terms of the instances that we classify custodian delay, there was evidence in that file that

Fines, Penalties and Forfeitures had directed the custodian to deposit.

Senator CHILES. I see.

Mr. ARTESIANO. But the individual did not take action or did not take action promptly.

Senator CHILES. So, again, there was no follow through, and there was no chain of command that required some enforcement.

Mr. ARTESIANO. In some instances we saw that Fines, Penalties and Forfeitures did follow up. But again you had in some cases repeated notices, four, five times, and still the action was not being taken.

Senator CHILES. So somebody was trying to get the money deposited. It was not like everything had broken down. Someone was trying.

Mr. ARTESIANO. Correct, Senator, in some of the seizures.

Senator CHILES. I understand that in the headquarters there was no national policy or organizational unit responsible for seized cash management.

Mr. DODARO. That is correct, Senator, as well as no national inventory.

Senator CHILES. And no inventory.

Is the accounting system substandard?

Mr. DODARO. That is correct.

Senator CHILES. All right, sir.

Mr. DODARO. Let me turn now to DEA's program.

Senator CHILES. Before you turn to that, let me ask you one more thing.

Customs is taking corrective action now. Are you satisfied with the corrective action that they are taking? With it will cure the problem?

Mr. DODARO. Yes, to date. I think that, if they follow through on drafting their national policy, assigning responsibilities, and to developing inventory information, if they continue those actions we will be satisfied.

Senator CHILES. We want your continued review of those actions to see if they are going to solve the problem.

Mr. DODARO. Yes, Senator.

Senator CHILES. All right, sir.

Mr. DODARO. Although we have not developed detailed case file information on the extent of DEA delays in depositing seized cash, we have sufficient information to show that DEA has similar problems to those at the Customs Service.

Senator CHILES. Why do you not have all of the information on DEA as you do on Customs?

Mr. DODARO. We began to discuss with DEA our review of case files. They had wanted to remove some sensitive information such as the names of the individuals and——

Senator CHILES. Are your people not cleared for sensitive information?

Mr. DODARO. We have an arrangement with DEA to where they can remove some of the information beforehand.

While we were in the process of reaching a mutually-agreeable solution to that situation, DEA established a task force to review a 9,500-case backlog. At that time they asked us to suspend or cancel our review. So, as a result, before this hearing we have not had a chance to look at any DEA cases.

However, we believe we have developed sufficient information to show that they have problems that are equal to the problems——

Senator CHILES. How can you show that?

Mr. DODARO. There are several reasons, Senator. For example, in one case during the period of our audit, the Los Angeles field division officials said they had $35 million in vaults and safety deposit boxes, much of which could be deposited. Officials began to deposit the funds, and as of February 28, 1987, about $26 million of the $35 million had been deposited. The Los Angeles officials also told us that most of their money is not needed for evidentiary purposes and thus could be deposited sooner.

Similar to Customs, DEA also lacks accurate seized cash inventory information. For example, there was a $10 million difference between New York's and headquarters' on-hand cash figures.

Senator CHILES. How much did New York have in on-hand cash?

Mr. DODARO. Twenty-six million.

Senator CHILES. And out of the $26 million there was a $10 million difference?

Mr. DODARO. That is correct.

Further, we found DEA's Office of Inspection had identified continuing violations of seized cash policies and procedures. They reported 118 control weaknesses during the three-year period ending July 1986. At least ten of DEA's 19 field divisions had weaknesses in each of the five control weakness categories, such as inadequate inventories and delays in processing cases.

DEA has acknowledged in its fiscal year 1986 Financial Integrity report that its seized property program has extensive problems. According to DEA, the processing backlog prevented it from promptly contributing funds to the Asset Forfeiture Fund, led to additional storage costs, and deprived participating State and local law enforcement agencies of their share of asset proceeds. In January 1987, DEA established a task force to eliminate a backlog of 9,500 seizure cases.

To ensure that DEA seized-property problems are resolved, we recommend that the Administrator report the results of the task force's review to the Subcommittee; ensure that the identified weaknesses are corrected, including promptly depositing non-evidentiary cash and periodically reassessing the evidentiary need for cash being held as evidence; and, three, report the weaknesses in DEA's Integrity Act report until they are corrected.

In closing, Mr. Chairman, I would want to point out that numerous persons within the Customs Service and Justice are working to improve seized property management. With their efforts and the continued support of this Subcommittee, we anticipate substantial progress in resolving the problems discussed today.

This completes my prepared remarks. My colleagues and I would be happy to answer any questions.

Senator CHILES. Thank you. Without objection, your prepared statement will be inserted.

I want to thank you and your associates for the work that you have done in this regard. I think it continues to be exemplary work. I hope as a result of this we are going to be able to have a clean river of cash like we have a cleaner river in Miami.

Mr. DODARO. Thank you, Senator.

Senator CHILES. The scope of our hearing today is limited to seized cash. Future hearings are going to deal with other aspects of my request to you on seized property, real estate and businesses. But would you hazard a guess as to what kind of total value in seizures that we are talking about in the aggregate?

Mr. DODARO. Because of the problems in keeping information, I would not want to hazard a guess. The agencies estimate it, though, to be in the hundreds of millions of dollars.

I think the major point here, Senator, is that no one will know how much is involved until we get good inventories and accounting systems.

Senator CHILES. DEA estimates that they seized about $154.5 million in currency in 1986. Based on your survey, would you say that that figure sounds about right?

Mr. DODARO. I think yes, based on the estimates and the information that we have been able to obtain.

Senator CHILES. I understand that Los Angeles Customs pays monthly to store millions of dollars in seized money. That the cost to store these monies is charged to the Customs Forfeiture Fund. How much is Customs paying for that service?

Mr. DODARO. I would like to let Mr. Viereck respond to that.

Mr. VIERECK. Senator, they negotiated the contract starting last July with Brinks in Los Angeles. They pay for the pickup of the money, and they also pay for the storage. In total, between July and January of 1987, it amounted to over $30,000.

Senator CHILES. Over $30,000?

Mr. VIERECK. In a seven-month period, yes.

Senator CHILES. If you had to place a degree of difficulty on the management of seized material, cars, boats, real estate, property, cash, which would be the easiest to manage?

Mr. DODARO. I would think cash would be, all things considered. Although each of the types of seizures has its own unique aspects, I would think cash, when compared to the complex seizures of real property and businesses, that the management of cash should be the easiest. Plus, Senator, there are well-established practices for handling cash.

Senator CHILES. In your statement you quoted the significance and the importance of the Comprehensive Crime Control Act of 1984. However, as far back as April 10, 1981, GAO has called for the use of asset forfeiture as a tool in combatting drug trafficking. Is that not correct?

Mr. DODARO. That is correct.

Senator CHILES. In July of 1983, GAO issued a report calling for better care and disposal of seized cars, boats and planes as a way to save money and to benefit law enforcement.

Mr. DODARO. That is correct, Senator.

Senator CHILES. Your agency has a history of trying to bring these problems before the other agencies. Do you have any hope that they are going to respond any better in the future than they have in the past?

Mr. DODARO. Yes, we do, Senator. First of all, I would think the interest and support of this Subcommittee will go a long way toward producing some corrective actions.

We also see some other encouraging signs. There is some evidence that the agencies are beginning to deposit the money. They have also reported there are problems under the Financial Integrity Act. We have also had Customs and Justice officials accompany us on our trips. But if history is any indication, Senator, sustained attention by the agencies and continuing congressional oversight will be necessary to ensure that these problems do not surface again.

Senator CHILES. On April 3, 1986, GAO again in Miami testified on the management of our seized, forfeited cars, planes, and boats, did you not?

Mr. DODARO. That is correct.

Senator CHILES. What were the cases that you excluded in your review of Customs at that time? Why were they excluded?

Mr. DODARO. In that review, we judgmentally selected cases where cars, boats, and planes were not disposed of timely to determine what was causing the delay. In our current review of seized cash in Customs, we excluded cases that were less than one year old. The reasons that we did that is that are various administrative and other proceedings that need to take place during the first year of the cash seized.

Basically, Senator, we looked at cases that were fiscal year 1985 or older.

Senator CHILES. Table 7 on page 18 of your statement is the DEA's inspector's findings and not the findings of the GAO. Is that correct?

Mr. DODARO. That is correct, Senator.

Senator CHILES. All right. Senator Sasser, do you have some questions?

OPENING STATEMENT OF SENATOR SASSER

Senator SASSER. Mr. Chairman, I simply want to commend you for holding these hearings today. I think that the testimony given here today will eventually lay the groundwork for some improved forfeiture procedures. I have a deep interest in the forfeiture policies of the Federal Government. In the crime bill of 1984, Mr. Chairman, I offered an amendment which provided that the Secretary of the Treasury and the Attorney General may, where appropriate, disburse cash and other assets that are seized in forfeiture to State and local agencies that assist in the investigations of organized crime, drug dealers, smugglers, and others. And I have seen in my native State of Tennessee local and State law enforcement officials that have aided Federal authorities in a number of complex drug smuggling cases, some of the assets that have been seized go back to the States and to the local authorities with the local attorneys general to help improve their drug interdiction in their State investigation efforts.

I think it is very, very important particularly at the local level that this program continue to grow. I frankly have been disturbed by some of the findings that have been noted at this hearing today. As you have pointed out, Mr. Chairman, the General Accounting

Office is noting long delays in depositing seized cash and delays of up to six months are not uncommon.

It is important that these procedures be improved. I think the hearings that you are undertaking today, Mr. Chairman, and the leadership that you are showing in this whole field and the splendid work that the General Accounting Office is doing here is in the long run going to be a great help in trying to stem the flow of these drugs into our country.

I think it is going to be a great help at the local level if we can lay out and clean up these procedures for seeing that there is expeditious transition of these seized assets back to State and local authorities.

Before I begin questioning I have a statement that I will not read but would like to insert into the hearing record.

Senator CHILES. Without objection, so ordered.

[Senator Sasser's statement follows:]

STATEMENT OF SENATOR SASSER

Mr. Chairman, I commend you for holding these hearings today. The testimony given here today will eventually lay the groundwork for improved forfeiture policies.

I have a deep interest in the forfeiture policies of the Federal Govenment. In the crime bill of 1984, I offered an amendment which provides that the Secretary of the Treasury and the Attorney General may, where appropriate, disburse cash and other assets seized in forfeiture to State and local law enforcement agencies that assist in the investigation of organized crime, drug dealers, smugglers and other law breakers.

In my native State of Tennessee, local and State law enforcement officials have aided federal authorities in a number of complex drug smuggling cases. At least some of the assets from these cases have gone back to State and local authorities to help improve their drug interdiction and drug investigation efforts. It's important that this program continue to grow.

Therefore, I am frankly disturbed by some of the findings noted at this hearing today.

The General Accounting Office (GAO) notes long delays in depositing seized cash into Asset Forefeiture Funds—and delays of up to six months are not uncommon. Indeed, in 81 selected cases, the inability of the Customs Department to deposit seized cash cost the Federal government about one-half a million dollars in lost interest.

Often times, Department headquarters did not know how much seized cash was on hand or in what bank accounts it was deposited to.

In short, it looks like we can catch the criminal and seize his assets, but we have a lot of trouble getting that money to the bank.

The situation also is not much better at the Drug Enforcement Agency (DEA). Inventory discrepancies of cash on hand between field offices and central headquarters are not uncommon, and perhaps most shocking, the GAO found that 58 percent of surveyed DEA field divisions did not have adequate physical security of cash and assets seized in the course of drug investigations.

And as of January, 1987 DEA has reported a backlog of 9,500 seizure case files.

Immediate and far-reaching improvements must take place in order to have our asset forfeiture program run at top speed.

I believe, as many of our witnesses do here today that the cash and asset forefiture programs of federal law enforcement agencies can help break the back of organized crime's drug dealings.

But the program can be doubly effective if seized assets are quickly put to their best use by being disbursed to Federal, State and local treasuries and they use these funds to expand the very law enforcement efforts that helped seize these assets in the first place.

The GAO has given the Justice Department, DEA, and the Customs Service a clear set of guidelines as to how to improve this program. They should follow these GAO recommendations immediately.

Senator **Chiles**. I will recognize the amendment that you have offered in your interest of obtaining not only a comprehensive crime control bill, but of attempting to share some of the assets of these seizures with State and local law enforcement to encourage them further for the work and cooperative effort that they give. They are the force that is on the ground all the time, and always finding themselves outmanned and outgunned by the traffickers. Many times, being able to use some of these assets against the traffickers, is the best way to combat them.

I have a further statement that I want to place in the record that recognizes all of the GAO team in addition to the ones that are appearing here today. I hope you will give them my regards and my thanks and the Subcommittee's thanks for the work that they have done. We certainly want to list them all in the record as well.

Mr. **Dodaro**. I will do that, Senator.

[The information referred to follows:]

Committee on Governmental Affairs,
Washington, DC, March 18, 1987.

Hon. Charles Bowsher,
Comptroller General of the United States, Washington, DC.

Dear Comptroller General Bowsher: The Governmental Affairs Subcommittee on Federal Spending, Budget and Accounting recently held hearings on the "Federal Accounting of Seized Cash". Mr. Gene Dodaro, Associate Director of General Government Division of the General Accounting Office offered testimony concerning the extensive investigation conducted by the GAO.

The thorough and comprehensive audit by your personnel led to an admission by the Justice Department that reforms were needed and would be implemented. The task force from GAO did a completely professional job. I extend to them my deepest appreciation, although the job finished, I believe it is appropriate to commend the task force personnel for the job they've done thus far. The task force members are as follows:

Sebastian "Sib" Correira, Washington, D.C.
James Black, Washington, D.C.
Thomas Gibson, Washington, D.C.
Torvall Nelson, Washington, D.C.
Greg Dybalski, Washington, D.C.
Ron Viereck, Los Angeles Ca.
Robert Leshinski, Los Angeles Ca.
Charles Chappell, Atlanta, Ga.
Mario Artesiano, Atlanta, Ga.
Andrew Marshall, Jr., Atlanta, Ga.
Ms. Deanna Estes Washington, D.C.

Thank you for your attention on this matter.

Sincerely,

Lawton Chiles, *U.S. Senator.*

Senator **Sasser**. Mr. Dodaro, you note in your report a wide variety of management problems that are associated with the cash management of seized assets. What reasons did the effected agencies give for such poor management practices? Are they saying they are short on manpower? Why are their supervisory practices so lax? Is there adequate attention being given to the problem by the agency heads here in Washington, D.C.?

Mr. **Dodaro**. One of the reasons that you will probably hear later from the witnesses has been the increase in seizures as a result of the Crime Control Act of 1984, and that created more work. Our point, however, is two-fold. Number one, that should have been no surprise to the agencies. They knew that the 1984 act increased their authority and was likely going to generate increased seizures.

And preparation should have been made to accommodate the increase in workload.

Secondly, some basic management tools were not in place, such as inventories, national policies, clear delineations of responsibility. Those tools, in our opinion, should have been in place well before the Crime Control Act of 1984.

Senator SASSER. You note that the Drug Enforcement Administration has a backlog of 9,500 seizure cases. In your view, how long would it take to clear up that backlog? How many seizure cases are being added to this backlog on a daily basis or, for that matter, a monthly basis?

Mr. DODARO. We had asked that question to DEA, and DEA has not been able to tell us how long it is going to take them to clear up that 9,500-case backlog.

Senator SASSER. You indicated, I think, in your testimony—and perhaps in a response to one of Senator Chiles' questions—that a large number of the DEA divisions had inadequate physical security for cash and assets that were seized through forfeiture. Could you describe in some detail for the Committee the nature of the lack of adequate physical protection for these seized assets?

Mr. DODARO. Basically, those findings were based on DEA's own inspection results. We did not have any first-hand evidence of that. What we can do is provide for the record some examples out of those inspection findings that would illustrate the type of thing you are interested in.

Senator SASSER. All right.

[The information referred to follows:]

As requested by Senator Sasser, GAO is providing specific examples of seized cash internal control weakness which were identified by DEA's Office of Inspection. These examples illustrate the type of weaknesses listed in Table 7 on page 18 of GAO's testimony (GAO/T-GGD-87-7, 3/13/87).

1. Monies and cashier checks are unsecured on custodian's desk.
2. $8,800,000 in seized and recovered monies are not recorded on the national inventory system.
3. The control ledger for seized and recovered monies over 2 years old is not being reviewed every 90 days to ascertain evidentiary value.
4. Agents are taking up to 18 months from date of seizure to turn over money to the DEA custodian.
5. There is no cumulative total of the amount of cash on hand.
6. There is a 68 day lag between seizure and input into national inventory system even though appropriate field division paperwork for input was completed within 5 days.
7. A total of 18 fugitive cases dating back to 1970 have not been reviewed. Semiannual updates have been made, but the DEA status report makes no mention of contact with the U.S. Attorney Office regarding the validity of evidentiary need.
8. The seized recovered monies custodian is also the principal cashier.
9. $2,100 in cash was mailed.
10. Monies are not being recorded into DEA Accounting System.
11. Money was released without proper authorization.
12. Physical inventory by two disinterested persons has not been performed on a quarterly basis.
13. $15,011 of forfeited money has not been removed from inventory.
14. Untimely deposits.

Senator SASSER. Thank you very much.

Thank you, Mr. Chairman.

Senator CHILES. Thank you, sir.

We thank you very much for your testimony here.

Our next witness will be Commissioner William von Raab, the Commissioner of Customs.

TESTIMONY OF WILLIAM VON RAAB, COMMISSIONER OF CUSTOMS, U.S. CUSTOMS SERVICE, ACCOMPANIED BY WAYNE HAMILTON, COMPTROLLER, AND WILLIAM GREEN, ASSISTANT COMMISSIONER FOR INTERNAL AFFAIRS

Mr. VON RAAB. Mr. Chairman, if I may introduce the gentleman with me, on my left is William Green, who is our Assistant Commissioner for Internal Affairs; on my right is Wayne Hamilton, who is the Customs Comptroller.

I am pleased to have this opportunity to appear before this Committee to address the history and current policies and procedures of the United States Customs Service regarding treatment of seized currency.

I had the occasion to have given to me this morning an advance reading of the GAO study which appeared in today's Miami Herald and is on all the wire services. I think it is very important to this Committee that certain misconceptions, certain basic errors with respect to seized currency be addressed and be corrected. There have been many statements made this morning by the individuals from GAO about the loss or the foregoing of economic benefit to the U.S. Government by the failure to invest the cash which has been seized by the various Federal agencies.

I have taken the liberty, Mr. Chairman, of giving to your staff a letter from the Federal Reserve Board as well as a detailed analysis of the funding practices of our Government, both the Treasury and the Federal Reserve Board, which state quite clearly that there is absolutely no economic benefit whatsoever to the United States Government to invest cash or Federal Reserve notes because they already are, in effect, an interest-free loan by the public to the U.S. Government.

Senator CHILES. Wait a minute, Mr. Commissioner. Are you trying to tell me that we might as well leave this money in the safety deposit boxes? There is no reason to determine whether you account for the funds other than the fact that we do not want to lose them? There is no benefit to the Federal Government at all in having this money invested in an interest-bearing account?

Mr. VON RAAB. There is no benefit whatsoever to the Federal Government other than the important one of security, which is very important; but there is no money possibly earned by the Federal Government in investing this money. If you would like, I would be happy to run through the Federal Reserve balance sheet——

Senator CHILES. Why does the Federal Government invest any of its money?

Mr. VON RAAB. We are talking here, Mr. Chairman, about cash.

Senator CHILES. Yes, sir. Why does the Justice Department invest cash that is seized, in interest-bearing accounts? Why does the Internal Revenue Service invest cash that they seized in interest-bearing accounts? Why do we take any other cash assets of the Federal Government and put them in interest-bearing accounts? Why do not we use it all in checking accounts?

Mr. von Raab. They do not invest cash in interest-bearing accounts. They place it in the Federal Reserve Board, which does not pay interest on that money, because the Federal Reserve system is a Government agency, although independent.

If you would look at the statement of the letter of the Vice Chairman of the Federal Reserve Board to me, and also the Federal Reserve balance sheet and income statement I have prepared, the top of which it says that the liabilities of the Federal Reserve Board, which include U.S. deposits and Federal Reserve notes are non-interest bearing. The result of this is that cash in the hands of the American public, cash in the hands of the Federal Government would not earn money if placed by the Federal Government in the Federal Reserve system.

That is quite clearly set forth in Mr. Johnson's letter, who is the Vice Chairman of the Federal Reserve Board.

Senator Chiles. Without objection, the letter will be inserted into the record.

[The letter referred to follows:]

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

MANUEL H. JOHNSON
VICE CHAIRMAN

February 6, 1987

The Honorable William von Raab
The Commissioner of Customs
United States Customs Service
1301 Constitution Avenue, N. W.
Washington, D. C. 20229

Dear Mr. von Raab:

As you indicated in your letter, staff members from the Federal Reserve have met with a Customs/Justice Department task force to discuss holding of seized cash and the subsequent crediting of the Treasury's account. We have also had further discussions with individual staff members from Customs and have sent a copy of an internal memorandum which explains the monetary policy and government revenue and cost aspects of a transaction involving the use of funds credited to the Treasury's account.

From a broad public policy perspective, there is no difference between replacement cash deposited for the benefit of Treasury and a direct credit made to the Treasury's General Account. In each case, if the agency then places the funds in an investment account, the Federal Reserve's monetary policy reaction to this increase in invested Treasury funds will be to sell securities in the open market, reducing the Federal Reserve's portfolio of government securities and the corresponding earnings on those securities. Selling the securities would be necessary in order to maintain a level of reserves consistent with policy objectives. The Federal Reserve's payment to the Treasury will be reduced accordingly, and the net savings to the government resulting from depositing seized funds will approximate zero.

In discussions that my staff has had with the Financial Management Service, the Federal Reserve only has the authority to credit the Treasury's General Account or to place the funds in safekeeping. The authority to invest the funds in an investment account is then subject to Treasury regulations as is the case for any earnings on the investment account. I wish to emphasize once again, however, that the "earnings" on the investment account will be offset by reduced earnings of the Federal Reserve, yielding negligible net savings to the Treasury.

As fiscal agent for the Treasury, the Federal Reserve will of course follow the instructions of the Secretary or his designee as to crediting deposits of currency in the Treasury's General Account. Please let me know if I can be of further assistance to you.

Sincerely yours,

Senator CHILES. I just wonder. I am just trying to get my own mind clear on this. There was a dispute or, a proposition made concerning money that was tied up for long periods of time as evidence. It would be wise to take that money and de-monetize it. In effect we could use that money in an interest-bearing account. We would put something in place of the money when it is needed for evidence so the cash can yield a benefit to the government.

That is the question that went to the Federal Reserve.

Mr. VON RAAB. Exactly. That was the letter I wrote to the Federal Reserve. In analyzing the proposal to de-monetize money, the Federal Reserve Board advised me that there was no reason to do it because there was no economic benefit that could be drawn from the Federal Government, other than to de-monetize it or to invest it in interest-bearing accounts.

Senator CHILES. I think, Mr. von Raab, that substituting is a totally different proposition. So, there were two separate items being proposed. You had to substitute something in place of the money to show the evidentiary matter. Now we are talking about the available cash that the court no longer uses. The question is: should we put that cash into the checking account of the Federal Government? Or should we invest it in the Federal Government?

Mr. VON RAAB. Exactly. And neither of those actions has any economic benefit to the United States Government. It is quite clear.

Senator CHILES. Quite clear?

Mr. VON RAAB. Yes, sir.

Senator CHILES. Well, we will have to get someone else to address that for us.

Go ahead, sir.

Mr. VON RAAB. There is also a statement that the money would have been lost to fighting crime. I cannot speak for the other departments, but the Customs Service is under an appropriation in terms of the amounts of money that it can spend from its forfeiture fund. And therefore, the issue of how much money is available to Customs in its law enforcement effort is appropriate——

Senator CHILES. But remember, under the Crime Control Act local government can have some kind of share in this forfeited money——

Mr. VON RAAB. That is correct. And we have a very active practice of sharing the——

Senator CHILES. But if it is in a safety deposit box, you are not sharing it, are you?

Mr. VON RAAB. As soon as it is forfeited, we will share it with the State and local——

Senator CHILES. Mr. von Raab, you did not even know where it was. How can you share it if it is locked in a safety deposit box? You do not know where the money was? You are not sharing that money. You are not going to tell me that, are you?

Mr. VON RAAB. We have shared millions of dollars——

Senator CHILES. You have shared, but what about these millions that are still locked in the boxes? You are not sharing any of that.

Mr. VON RAAB. I do not believe anyone has suggested that the Customs officers have not been aware of the location of the money. What they have said——

Senator CHILES. Well, we are suggesting that your Washington office did not know where it was located.

Mr. VON RAAB. That is right. The relations between State and local officials and Customs are conducted at the local level, and I can assure you that if——

Senator CHILES. So, at the local level you are telling me that your people went into the safety deposit box and got a little of this money out, and they said, "we are going to share some of it with you. Had this been done before the money was deposited somewhere?

Mr. VON RAAB. I can tell you that when a seizure of substantial amounts of cash are made involving the assistance of State and local officials, those State and local officials are very much aware of the possibility of that being shared with them. That issue is worked very closely with both Customs officials and the local police and sheriff's departments.

Senator CHILES. Mr. von Raab, those local people, until Uncle Sam gives those local people the money, they do not get a chance at it.

Mr. VON RAAB. Until——

Senator CHILES. And it is forfeited——

Mr. VON RAAB. Right.

Senator CHILES. That is right.

Well, it is not technically forfeited until your people deposit it into the fund. As long as it is sitting in a safety deposit box, it is not forfeited.

Mr. VON RAAB. Our money does not go to the forfeiture fund——

Senator CHILES. Where does it go?

Mr. VON RAAB. What happens is, it is judicially forfeited. At that point it is freed up to be shared with State and local. It does not go to the forfeiture fund.

Senator CHILES. Technically, it is freed up.

Mr. VON RAAB. Technically, a check is written by the Customs Service to the sheriff's department——

Senator CHILES. You do not write a check out of money that is sitting in a safety deposit box. This hearing is about getting the money out of the safety deposit box and depositing it somewhere where you can write a check. That is what you have not done. So, you cannot tell me you were sharing with State and local law enforcement people before you were able to write a check. And I do not think the Miami office could write that check. I hope they could not. I hope that it had to be cleared by someone.

Mr. VON RAAB. The facts of the matter are that, as soon as cash is forfeited with a court order——

Senator CHILES. Yes, sir?

Mr. VON RAAB. The nature of the relationship between a sheriff's department and the Customs Service is such that the cash is typically immediately shared with the State and local agencies.

Senator CHILES. Typically immediately shared?

Mr. VON RAAB. Yes, sir.

Senator CHILES. Mr. von Raab, we are going to have the GAO go back and look at that, I think you might want to correct that before this day is over, because I do not believe that has happened with any of the money that we are talking about. I do not believe a dime of the money in this hearing today has been shared, because it never went into an account where it could be shared.

Mr. VON RAAB. Okay, I will certainly look at that, but I believe that the money that we are talking about here——

Senator CHILES. Please look at it.

Mr. VON RAAB [continuing]. For the most part—

Senator CHILES. I do not want you to make that kind of error, before this day is over.

Mr. VON RAAB [continuing]. For the most part would have gone only to the U.S. Treasury and not to State and local. But we will look at that, certainly.

Senator CHILES. I have interrupted you some in your statement.

Mr. VON RAAB. That is all right.

To give a little background, Customs enforcement actions have generated, as we have heard, overwhelming numbers of seizures. For example, Operation Backstop in south Florida generated over $7 million seized in one three-week period. The overall number of quality of currency and monetary instrument seizures have been increasingly significant. In 1984 Customs seized $67.7 million. In 1985 seizures totaled $95.8 million. In 1986 seizures accumulated to $96.1 million. With its successes, Customs has found itself placed in an increasingly difficult position, since most U.S. Attorneys require that seized currency be kept intact for prosecuting cases. Hence, it often cannot be deposited into local bank or treasury accounts but must be stored in vaults during the judicial process, which can range from six months to several years.

When U.S. Attorneys decide that seized currency need not be held for evidentiary reasons, or when a violator stipulates that the seized currency can be deposited, then Customs will deposit those funds.

Senator CHILES. But, we do not dispute that at all. We are not talking about any of that at this hearing. That is not the focus of any of the GAO testimony, as they set forth. We are not talking about any money that is involved any dispute concerning dispute money that needs to be used for evidence.

Mr. VON RAAB. So you are just talking about the $36 million that is not in that category?

Senator CHILES. Well, it is more than that. I think there is considerably more than $36 million. We looked at $39 million in two offices, so I assume you have much more than that. You have 42 offices.

We think there is about $100 million.

Mr. VON RAAB. The $100 million includes amounts that are being held for evidence. So, what we are really talking about then is something less than $40 million.

Senator CHILES. It cannot be correct, because we looked at $39 million in two offices.

Mr. VON RAAB. Some of that money would have had to have been held for evidence. We only have $96 million in total, including the money being held for evidence.

Senator CHILES. Go ahead.

Mr. VON RAAB. The Customs Service is constantly striving to improve its procedures and policies regarding the management of seized currencies. We have consulted the Federal Reserve Board about alternatives to storing seized currency which must be retained for evidentiary purposes. The Federal Reserve Board has concluded that, if seized funds are deposited to the credit of the Treasury or invested, there will be no economic benefit to the Government. That does not mean, however, that depositing funds into Treasury deposit accounts will not be very important and advantageous to the Government and that it will reduce the problems of insuring the security of the cash.

Customs currently has approximately $96 million in unforfeited cash and monetary instruments on hand. Of this approximately $26 million was deposited in accounts. The balance of the currency and monetary instruments are stored in vaults at commercial banks, Federal Reserve banks, private security firms, and Customs facilities. The storage decision is made at district offices based on the best available and most secure location.

There are certain statements in my statement here which I would like to submit for the record with respect to our policies.

Senator CHILES. Without objection, your statement[2] will be included in full in the record.

Mr. VON RAAB. We have reviewed 131 case studies in Los Angeles and Miami to develop profiles about Custom's ability to deposit seized currency. We have found that in 54 percent of the cases, seized currency could not be deposited prior to forfeiture since the currency was needed as evidence. We further describe the reasons, but I understand from you that that is not the subject of this hearing.

We have, however, taken notice of the GAO recommendations. I might pause to comment on your comments with respect to the Miami River situation, in which the General Accounting Office and this Committee were particularly helpful and did point out a terrible problem that we had. I am pleased to say, as you have said, that the situation has been corrected. It was a very good example of cooperative advice, oversight by your Committee and a response by the Customs Service.

So now we turn to currency management, and we are standardizing our control measures and strengthening our activities within the Customs Service for managing and reporting seized currency and monetary instruments. Our Regional and District/SAC offices exercise physical control measures over seized currency and monentary instruments consistent with established guidelines for the rules of evidence.

Actions have been taken to ensure that all abandoned currency and monetary instruments are identified and their status recorded in an automated inventory and reporting system which should be implemented in April 1987.

Each case will be recorded in an on-line inventory system at the time of seizure. Monthly reports will be issued which reflect the status of each case. The National Finance Center will analyze reports and follow up with District and SAC offices to ensure that evidentiary cash is reassessed, that non-evidentiary currency is timely deposited into appropriate accounts, and that forfeited currency and monetary instruments are timely deposited to the Customs forfeiture fund following forfeiture and final case disposition. A pilot test——

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[2] See p. 57.

Senator CHILES. You mentioned the Customs forfeiture fund?

Mr. VON RAAB. Yes, sir.

Senator CHILES. Is that the fund from which you issue a check to local government?

Mr. VON RAAB. No, sir. That goes only to the Customs Service.

Senator CHILES. What is the fund that you would write out a check to local government from if they participate?

Mr. VON RAAB. Maybe I could ask the comptroller to tell you in some detail what the mechanics are of giving money to sheriff's department or a police department.

Mr. HAMILTON. Specifically, Mr. Chairman, the fund that it is deposited in prior to the time our putting it into the forfeiture fund is a miscellaneous receipts account within our revenue accounting system. We can disburse to a State or local government from that account.

Senator CHILES. You can disperse from the miscellaneous receipt account. Where is that account?

Mr. HAMILTON. That is a general fund account.

Senator CHILES. A general fund account.

Mr. HAMILTON. General fund of the Treasury.

Senator CHILES. Now, have the monies that we are talking about, and the monies the General Accounting Office was looking at, in the cases in Miami and Los Angeles, gone into the general receipt account?

Mr. HAMILTON. No, they had not.

Senator CHILES. They had not. So, none of that money would have been available for payment or disbursement to local officials?

Mr. HAMILTON. Unless it had been forfeited.

Senator CHILES. I do not care whether it has been forfeited or not. You told me that before it could go out, it had to go into the general receipts account.

Mr. HAMILTON. We cannot put it into the general receipts account until it has been forfeited.

Senator CHILES. Yes, sir. All right. The monies that we are looking at, were cases in which the monies had been forfeited.

Mr. HAMILTON. That is correct.

Senator CHILES. All right. But it still could not be used until it went into that account.

Mr. HAMILTON. That is correct.

Senator CHILES. Then you better tell Mr. von Raab that so he can correct the statement here, and he will not have to leave here having made a wrong statement to this Committee.

You have not commented.

Mr. VON RAAB. Mr. Chairman——

Senator CHILES. I will tell you what I am going to do. I am going to take a little recess now, and you tell Mr. von Raab what you just told me.

Mr. VON RAAB. I am prepared to answer that question, Mr. Chairman.

Senator CHILES. All right, sir.

Mr. VON RAAB. We will look into it, and we will give your Subcommittee a report on that.

It is true that it is possible that some of the monies that have been held after forfeiture may have been available to be shared with sheriffs'departments or police departments. The percentage of that money, we will have to get back to you on it.

Senator CHILES. But that is not what we are talking about. Mr. von Raab, I made the statement that none of the money in the safety deposit boxes had been deposited. The money was the scope of our investigation. It would be available to be issued to those State and local people until you had actually gone through a step of depositing. You said once it is forfeited, it could have already been given to the sheriff and police departments, and they are watching that money. They are going to get their share of it, and they are already on top of that.

I took issue with you on that. I said it could not happen. Now we find out from your comptroller that there is a general receipts fund. The money has to be put in the general receipts fund. I have asked him if any of this money went into the general receipts fund? I will ask the GAO if necessary.

Where this comes from——

Mr. VON RAAB. Mr. Chairman, at the risk of belaboring this point, I will agree that you are correct.

Senator CHILES. Thank you.

Your statement said none of this happened. I did not want you leaving here with that.

Thank you very much.

Mr. VON RAAB. In addition, we are exploring more effective and efficient methods for depositing seized cash once it has been stipulated, forfeited, or in the case judicial action has been terminated. The principal concern is the least costly and most secure method of transporting and depositing the funds. Alternatives to using accounts with local commercial banks and depositing into a unique account in the general fund of the Treasury, using the same procedure as for other Customs collections or depositing with the local Federal Reserve for credit to the same general fund account, we will be considering these and other alternatives and implementing the best in the near future.

At this time I would like to acknowledge the General Accounting Office for their role in surfacing seized currency as an issue that law enforcement agencies must address. We have a substantial cash management responsibility, and toward this end we have spent considerable efforts soliciting GAO's input in addition to that of the financial management service of Treasury and the Federal Reserve to construct a cash management program that will improve our efficiency and accountability with respect to seized cash.

There are many opportunities for improvement. In conducting their reviews, GAO has been most objective and cooperative in working with Customs' personnel to define corrective action. Furthermore, we have worked at great length with the Department of Justice representatives to analyze the problems and solutions attendant to evidentiary requirements. As a result of our efforts and those of our colleagues in the other agencies, the evidentiary issue, which I understand is not the subject of this Committee, but it is important, is now being emphasized.

Mr. Chairman, this concludes my prepared remarks. I would be happy to continue to answer your questions.

Senator CHILES. Thank you, Mr. von Raab. I want to thank you for your statement. I want to thank you for the kind acknowledgment you made about our Miami River hearings. I think that has been a cooperative effort. It certainly has been positive. That is what we hope will come from these cash management hearings and other hearings in regard to forfeiture, if they are necessary.

We do know that when we were looking at the Miami River, we started off with boats on hand that valued about $59 million at the time of seizure, and aircrafts that valued at $13.4 million at the time of seizure. Those boats and cars and planes changed in their value. When we were ready to get rid of them, we actually made a loss—by what the value was, but we also found that it cost the taxpayers some $820.4 million for storage and maintenance of the assets. Of course, that turned out to be a loss to the taxpayer. That is what we do not want to have happening anymore here.

Do you now have a national inventory of seized cash including information on the amount and location of cash deposited in the interest-bearing bank account?

Mr. HAMILTON. Mr. Chairman, we are in the process of developing that inventory.

Senator CHILES. You are developing that now.

We know that Customs has targeted and made some very successful operations in trying to go out and seize cash. We compliment you on that. We think that is a tremendous initiative. But knowing that we have that initiative and that we are going to seize cash, it makes all kinds of sense to utilize the cash as quickly as we can once we no longer need that cash for evidence.

We thank you. I think the outstanding issue that we still have before us is your letter from the Federal Reserve system and the assertion that there is no reason to deposit the seized cash. That is something that we do want to follow up on.

Mr. VON RAAB. It is a fascinating subject.

Senator CHILES. It is fascinating. It seems to me that, if there is no reason to ever deposit cash, then the Federal Government should just keep all of its assets in a checking account. That really makes me kind of scratch my head, I will have to tell you.

Mr. VON RAAB. It should keep as many of its assets as possible in Federal Reserve notes. That is for certain.

Senator CHILES. Well, it should keep them in something, but I do not think we would want to keep them in safety deposit boxes.

Mr. VON RAAB. I agree with you.

Senator CHILES. All right.

I will call back for a moment, if I can, Gene Dodaro of the General Accounting Office.

FURTHER TESTIMONY OF GENE L. DODARO, GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY SEBASTIAN CORREIRA, GROUP DIRECTOR

Senator CHILES. Mr. Dodaro, have you had an opportunity to review the letter that we now have that was given to us by Mr. von Raab from the Federal Reserve System?

Mr. DODARO. Yes, Senator. We have had a chance to read through it.

Senator CHILES. Who do you have with you?

Mr. DODARO. I have with me Sebastian Correira, who is a group director responsible for this project.

Senator CHILES. Can you give me any comment on this letter stating we should never deposit this money in interest-bearing accounts.

Mr. CORREIRA. Senator, I would like to make a couple of points. On page seven of our detailed statement we have a schedule which shows the economic benefits foregone that we computed. I would like to call attention to the fact that these economic benefits foregone were computed on $24.2 million that had been forfeited. This is forfeited cash that was sitting in these locations and had not been deposited into the Customs forfeiture fund, which is the ultimate destination of the money. This is money that was not needed as evidence.

When we visited Los Angeles and Miami in July, we found that these cases were sitting around, forfeited cash. When we raised questions, they began to deposit this money.

Secondly, regarding Custom's statement that there is no advantage to the Government to deposit cash, we categorically disagree with that. That goes against all cash-management principles.

The whole purpose of cash management is to get cash into U.S. Treasury accounts as quickly as we can. The Customs forfeiture fund is a U.S. Treasury account. Our discussions with GAO officials, that are experts in cash management, as well as Financial Management Service officials in the Cash Management Division of the Justice Department explained to me that the Federal Government has two accounts with the Federal Reserve. One is a checking account, and one is the Treasury Tax and Loan account, which earns interest on Government money. The Federal Government maintains a $3 billion balance in the checking account. Every day they project their cash needs for the next day——

Senator CHILES. Do you mean the Federal Government is just like Mrs. Lawton Chiles. She keeps one savings account, and she keeps one checking account. She tries to keep in savings as much money as she can until she has to transfer it to the checking account?

Mr. CORREIRA. That is what has been explained to me, Senator Chiles, and it makes eminently——

Senator CHILES. She calls me when no money is in either one of those accounts, and I have to do something else.

Mr. CORREIRA. Yes, sir.

And every day they call the Federal Reserve, tell them what their cash needs are. That money is transferred from the Treasury Tax and Loan account into the checking account. This is the reason why the Federal Government tries to emphasize to the agencies that we want to get cash into Government accounts as soon as possible.

It is hard for me to understand that it does not make sense to get the money into the U.S. Treasury account as quickly as we can.

Senator CHILES. Do the Treasury Department or the Justice Department try to get money into interest-bearing accounts?

Mr. CORREIRA. Yes. The Justice Department has two accounts: their Asset Forfeiture Fund, which is used to deposit cash that has been forfeited; and their Seized Asset Deposit Fund, which is used to deposit cash pre-forfeiture, which does not yet belong to the Government but which can be deposited if the cash is not needed as evidence or if there is a written agreement or court order allowing deposit of the cash. Deposits into either one of those accounts has economic benefit to the Government. It is a Treasury account, and all Treasury accounts are one pot of money, as it has been explained to me.

Senator CHILES. Have you had a chance to review this letter? Can you tell me what this letter purports to say?

Mr. CORREIRA. Senator Chiles, I read the letter. I do not understand it. I believe what they are discussing is the de-monetization of money which at one time early in our review we were considering. Simply put, if money is needed as evidence, we felt that possibly that money could be taken out of circulation, de-monetized, and you could hold the $4 million as long as you wanted, if we could reintroduce that $4 million into the money market, into circulation. Federal Reserve indicated that practice did not provide any advantage to the Government, although I never really fully understood the reasons. But we have avoided that issue because we have been dealing basically with money that is not needed as evidence.

Senator CHILES. So, what you are saying is, you think this refers to the discussion that came up as to whether you could de-monetize money that was still having to be held for evidence. You have to get that money back into trying to bear some interest, even though the Federal Government had to be responsible for that? And you think that is what this letter covers?

Mr. CORREIRA. That is my opinion, sir. I believe that is what that letter is referring to, but I am not sure. It is a very difficult letter to understand.

Mr. DODARO. There are a couple of other points I would like to add on this, Senator.

One, there is a Treasury requirement that requires cash to be deposited when collections total $1,000 or after a week, whichever comes first. So, the Treasury Department recognizes the importance of getting the money into an account. Irrespective of the economic benefits issue, there is also a control issue associated with maintaining control over money.

There are also the issues of the costs of keeping these accounts, the administrative burdens associated with it.

So, there are a lot of other costs associated with it in addition to the economic benefits foregone.

Senator CHILES. Well, I understand that, but it just seems to me, that we should deposit that money. If what you say is true, then I understand why the Federal Government is in such desperate financial trouble.

Thank you very much.

Our next witnesses will be Mr. James J. Hogan, the Controller of the Drug Enforcement Administration of the U.S. Department of Justice, and Mr. James Knapp, the Deputy Associate Attorney General.

Mr. Knapp, I think you were going to give your statement first.

Mr. KNAPP. Yes, Senator.

TESTIMONY OF JAMES I.K. KNAPP,[3] DEPUTY ASSOCIATE ATTORNEY GENERAL, ACCOMPANIED BY JEFFREY FRATTER, U.S. MARSHALS SERVICE, AND JAMES J. HOGAN,[4] CONTROLLER, DRUG ENFORCEMENT ADMINISTRATION, ACCOMPANIED BY WILLIAM SNIDER, FORFEITURE COUNSEL, DEA

Mr. KNAPP. Mr. Chairman, I appreciate the opportunity to appear before you this morning to discuss Federal forfeiture activities and associated cash management policies, practices and procedures.

Sitting on my right here to help me answer questions is Mr. Jeffrey Fratter, who is director of the forfeiture program for the United States Marshals Service. Mr. Hogan will be testifying after me. On Mr. Hogan's left here is William Snider, who is forfeiture counsel for DEA.

As you know, the Federal forfeiture program entered a new age with enactment of the Comprehensive Crime Control Act of 1984. Prior to that time, we counted Federal forfeiture in the tens of millions of dollars. Today we count it in the hundreds of millions of dollars. Obviously, this transition from a relatively small scale to a large scale operation has not occurred without some difficulties, one of which involves the prompt transfer of seized cash into a Treasury account which alleviates some of the debt servicing burden on the United States. And that, in a nutshell, is the economic benefit.

At the departmental level we are moving to address all forfeiture——

Senator CHILES. Well, not if there is a balance on one side and a balance on the other. I do not think you would even do that, according to the Federal Reserve letter.

Mr. KNAPP. Well, I do not think they fully considered this aspect of it. But my understanding is that there is a clear economic benefit. If we have $300 million in the seized asset cash, that is $300 million less that has to be borrowed at high interest rates on the open market.

Senator CHILES. So, you think that there is some economic benefit as well as the security benefit?

Mr. KNAPP. Definitely, yes, sir.

Senator CHILES. And you speak for the Justice Department on that?

Mr. KNAPP. I speak for the Justice Department on this. This is the information which I have been provided. Yes, sir.

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[3] See p. 65 for Mr. Knapp's prepared statement.

[4] See p. 69 for Mr. Hogan's prepared statement.

Senator CHILES. I am glad the Justice Department feels that way.

Mr. KNAPP. At the Department level, we are moving to address all forfeiture-related problems we have confronted. Upon becoming Associate Attorney General last September, Steve Trott asked me to chair an expanded Department of Justice asset forfeiture policy advisory committee to coordinate the forfeiture activities of all components of the Department of Justice. Since that time, we have taken numerous actions to improve our overall performance on the forfeiture front.

The first initiative relates to one weakness in our forfeiture management system which has been the absence of an integrated department-wide information system to track all Federal forfeiture matters within the Department. Rather, each component of the Department which was responsible for forfeiture has developed its own case-tracking system. We are, therefore, in the process of putting in place a new computer system, to be known as the AFTRAK system, which will embrace all forfeiture matters without regard to the particular component of the Department responsible for the various cases.

The prototype of the new system is expected to be in place by July embracing the FBI, Marshals Service, and the Criminal Division, with other components of the Department, that is, the U.S. Attorneys Offices and DEA, as well as the Postal Inspection Service, to be added by the end of the year.

A second contributing factor to delays in placing seized cash in a Treasury account is the backlog in processing of forfeiture cases which has developed due to the tremendous growth experienced in the number of Federal forfeiture actions. We have a program in place to attack the backlog including a task force operation at DEA to process matters there. Among other things, we are seeking to utilize fully the expanded purposes of the Asset Forfeiture Fund as authorized last year in the Anti-Drug Abuse Act, to mobilize additional resources for processing of forfeiture cases.

Under the 1986 amendments, which for the first time permit program-related expenditures from the fund, we are contracting for data entry services, clerical help, analytical services, computer programming and equipment necessary to cut forfeiture processing time. In short, we are giving the backlog a high priority, and are beginning to see the results of our efforts.

Finally, we are seeking to ensure that cash not needed for evidentiary purposes is removed from safes and vaults and placed in the appropriate Treasury account. In this regard, we agree with the GAO that much of the currency now being held as evidence is simply not in fact needed for that purpose.

We did place in effect certain policies in September of 1985 designed to ensure that seized cash not needed for evidence was expeditiously credited to the Marshals account. However, while some substantial progress has been made—in September of 1985 approximately $12 million in seized cash was posted in that account. As of January 31st, that figure has already grown to about $73 million—there is much more to do. More cash is being retained for evidence than is necessary.

We have studied the de-monetization alternative for some time. But as you can see, the Federal Reserve is obviously not keen on that. Consequently, we have sort of taken the bull by the horns. Yesterday afternoon, Associate Attorney General Stephen Trott signed a memorandum which is going out today to all United States Attorneys as well as to the head of the Justice Department investigative agencies which basically directs that all cash which is currently subject to criminal or civil forfeiture is to be delivered to the Marshals Service for deposit in the seized asset deposit fund account within 60 days after seizure or 10 days after indictment, whichever occurs first.[5]

Exceptions to this directive, including extensions of those time limits, are to be granted only with headquarters consent in Washington. That is——

Senator CHILES. So, you are going to go further. You are going to take the money that we used to worry about as evidence, and put it in an account?

Mr. KNAPP. We are going to permit retention of certain types of cash. If the Criminal Division in Washington concludes that the cash in question has a unique evidentiary purpose, that is, there are fingerprints on it, for example——

Senator CHILES. I see, I see.

Mr. KNAPP [continuing]. or it is packaged in an unusual manner——

Senator CHILES. That makes a lot of sense.

Mr. KNAPP [continuing]. or if there is some other unusual, unique feature, then that can be retained, but only with the permission of the head of the Criminal Division in Washington, unless it is below $5,000. This policy is for amounts $5,000 and above.

Beyond that, the mere fact that it could be used for demonstrative purposes in court is not considered a legitimate evidentiary purpose. Consequently, all that money is to be turned in to the Marshals account within 60 days.

Senator CHILES. Within 60 days.

Mr. KNAPP. Yes.

Senator CHILES. That makes a lot of sense.

Mr. KNAPP. Now, this obviously only applies to Justice agencies. The Customs Service, as you know, has different procedures and they have a different fund. We are going to have to consult with the Customs Service on this issue and how to implement it.

Senator CHILES. Well, we hope some of the other agencies including Customs will follow what you are doing there, because that seems to make a lot of sense. As you say, if it has a unique evidentiary function, then——

Mr. KNAPP. We will retain either that cash or a portion of——

Senator CHILES. If you have to trace the trail of evidence, then, of course, you want to make sure you do that.

Mr. KNAPP. If there is narcotics residue on it, if there are fingerprints, if there is an unusual type of packaging, we will retain at least——

Senator CHILES. But if it is seized incident to an arrest or seized where—most of this cash, 90 percent sure of it, is not a unique evidentiary thing——

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[5] See p. 73.

Mr. KNAPP. It will be deposited.

Senator CHILES. Very good, very good. And that order went out yesterday?

Mr. KNAPP. This order was signed yesterday. It is going out today.

Senator CHILES. Very, very good.

Mr. KNAPP. In conclusion, I should note that our efforts to address this forfeiture backlog and to improve the cash management practices are not being allowed to interfere with the basic thrust of the forfeiture program, which is to remove instrumentalities and proceeds of drug trafficking from the control of drug syndicates. DEA is increasing its emphasis on identifying, tracing and seizing property forfeitable under the drug laws, as we continue to believe that forfeiture represents one of the most effective means of eradicating the organizations involved in the drug trade.

We will be studying the GAO report to see if there are any additional recommendations or actions that need to be taken. We look forward to continuing to work with the Committee and with GAO to improve the administration of what is really a very, very important program.

That concludes my prepared statement.

Senator CHILES. We thank you for your statement, which will be inserted into the record, without objection.

Senator CHILES. So, what you are talking about, that letter would cover all of the agencies under Justice? So, it covers DEA, the FBI, and, in effect, the Marshals Service, because they might also have some seizures?

Mr. KNAPP. It is possible.

Senator CHILES. All right.

Mr. Hogan?

Mr. HOGAN. Mr. Chairman, if you wish, I will enter this four-page statement I have into the record and then answer any questions you may have, if that would be appropriate.

Senator CHILES. Very good.

Mr. HOGAN. May I make a comment?

Senator CHILES. Yes.

Mr. HOGAN. The Administrator of the Drug Enforcement Administration has always been concerned about DEA's handling of seized and forfeited property. We are currently seizing more than our annual appropriation. We are victims of our success, you might say.

The changes in the asset forfeiture procedure in 1984 gave us a shot in the arm from an enforcement standpoint and at the same time a shot somewhere else in the handling of the administrative processes that the asset forfeitures have created for us.

The GAO report, I note, gives us credit for the fact that the inspection division of the Drug Enforcement Administration had identified most of the problems that came out of their study. We appreciate that.

Senator CHILES. I think that the point you make is very valid. That, of course, is what we hope to correct. Customs was very successful in the seizure of boats, assets, planes, but somehow the object was always to go out there and seize it. No one had ever thought about what do with the seizure after we had gotten it.

Somehow the task was relegated to clerks. There was no system of following it. There was no accounting. There was no follow up. And the same thing, I think, has happened to everybody in regards to the cash.

You are right. We are being much more successful, and you all are more successful. You are to be complimented for that. But we do have to set these procedures so that we are able to get the fruits and utilize the fruits.

As you know, Mr. Knapp, I, along with Senator Biden and others, want to take the cap off the forfeiture fund. We wanted to use it more broadly to fund some of these programs that the administration now seems to want to cut back on, such as drug education and some of these other areas. We could see the dollars that were coming into that. Of course, we also see the tremendous benefit of allowing your agency to share in the forfeiture and allowing the State and local agencies to have a share of it, too.

This is the carrot that is out there. Many of those agencies do cooperate, and they want to. But they have always been frustrated if they sort of bring the Feds in; suddenly, they receive none of the proceeds from the seizures. And of course, they are so desperate in their budgets to try to get cash and the other assets, such as the boats, the planes, the radio equipment, some of which they can desperately use; so that is necessary, too.

Well, again, I am delighted with the step that the Justice Department has taken. I assume that if you set up a process where all of this is to be deposited within 60 days, then it ought to be simple to put some kind of followup through to make sure it is carried out. There has to be a Washington signoff for the process to go any longer than the 60 days. That ought to be something fairly easy to audit.

At some stage, there has to be some accountability and responsibility. As we found in the GAO case before, there were many, many notes where someone in customs had been told to deposit money, but noone ever did it. Mr. Snider, if you were the forfeit office, at some stage you ought to be held accountable for the deposit. And then you ought to be holding somebody accountable under you.

It seems things work better, when I know I am accountable for something and someone is overseeing my actions to see that I do it. I have to answer for those actions. I do a better job when there is accountability.

That that is what we have had to establish here. I compliment the Justice Department on the step they have taken and the appearance they have made.

Can we get a copy of the task force recommendations? [6]

Mr. HOGAN. That certainly will be available, Mr. Chairman.

Mr. SNIDER. The task force is issuing weekly reports on its activities. A copy of that weekly report is being made available to GAO.

Senator CHILES. We would like you to also send that to our Subcommittee, if you would, as well.

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[6] See p. 76.

Mr. SNIDER. The task force, Senator Chiles, I might mention, is not a task force which is undertaking a study. This is an on-hands groups of people who have been drawn from headquarters to actually process the cases.

Senator CHILES. Good. I think that is great. We do not need to study it any longer. I think we have got enough studies.

We thank you very much. We have some more questions. We may submit a few for the record for you.

Thank you.

We will recess our hearings now, subject to the call of the Chair.

[Whereupon, at 11:10 a.m., the Subcommittee was recessed, subject to the call of the Chair.]

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF GENE L. DODARO

Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to discuss our review of the Customs Service's and the Drug Enforcement Administration's (DEA) management of seized cash, which was undertaken at Chairman Chiles' request. As you know, Senator Chiles, GAO has previously reviewed federal asset seizure and forfeiture programs, including, at your request, reviews of Customs' management of seized cars, boats, and planes. Our prior work, which is listed in appendix I, identified deficiencies in agencies' management of seized assets, which, in part, were expected to be resolved by enactment of the Comprehensive Crime Control Act of 1984. However, as we will discuss this morning, the growth and complexity of seizures has risen in recent years, and poor internal controls have resulted in millions of dollars in seized and forfeited cash not being deposited promptly.

WHAT IS FORFEITURE?

Forfeiture law allows the government to take property, including cash, that has been illegally used or acquired, without compensating the owner. In cases of $100,000 or less, forfeiture can be handled administratively by the seizing agencies. For amounts above $100,000, the cases are handled judicially by U.S. Attorney offices and the courts. Also, cases under $100,000 are handled judicially if the defendant or other involved parties request it.

Identifying, seizing, and forfeiting assets of drug traffickers and organized crime figures has become a key part of federal efforts to curb such crime and economically punish criminals. The Comprehensive Crime Control Act of 1984 expanded the government's seizure authority and established Asset Forfeiture Funds to finance the management and disposal of seized and forfeited assets. This has resulted in increases in the volume of assets, including cash, being seized, and heightened the importance of good internal controls and oversight in properly managing and disposing of seized and forfeited assets.

Our review, however, shows that such controls over seized and forfeited cash were either not in place or were inadequate. Consequently, millions of dollars are being held unnecessarily in vaults and safety deposit boxes before being deposited into designated U.S. Treasury accounts. The delays prevent the government from obtaining economic benefits from the idle cash and increase the administrative costs and risks in handling, storing, accounting for, and safeguarding the cash from theft and abuse. Customs and DEA have begun to take corrective action but more needs to be done to prevent the problems from recurring.

SCOPE OF GAO REVIEW

Our review covered the Customs Service and DEA because, with an estimated $220 million of seized cash on hand, these agencies have, by far, most of the cash seized by the Departments of Treasury and Justice. My testimony will focus first on our review of Customs' cash seizure program and follow with a discussion of DEA's program.

Our review of Customs was conducted in its Miami and Los Angeles Districts, which accounted for 60 percent of the estimated $96 million in seized cash Customs had on hand. We began our field work in these locations in July 1986. Our review included analysis of cash seizures which were deposited July 1 to October 14, 1986 and cases on hand when we began our detailed examination of case files in October 1986. We excluded fiscal year 1986 on hand cases from our detailed examination because certain administrative and legal requirements must be satisfied in many seizure cases before the cases are closed.

From a total of 231 such cases amounting to about $43.4 million, we reviewed 129 cases equalling about $39.1 million. We selected a stratified random sample for review except that we reviewed all cases in Los Angeles that met our criteria. The results of our case analyses are unweighted and cannot be projected. (See app.II for a detailed discussion of our methodology.)

TABLE 1
Scope of GAO Review
Customs Service

Where is the cash?	45 Districts
How much?*	$96 million
GAO audit locations:	Millions
Miami	$38
Los Angeles	20
Total	$58
Audit location cash as percent of total	60

* Estimated August-September, 1986.

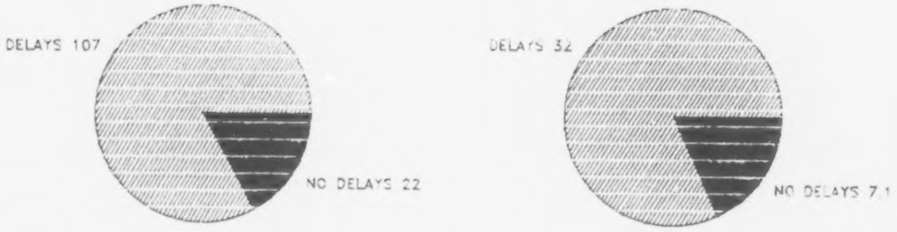
CUSTOMS SERVICE DELAYS IN DEPOSITING CASH

Of the 129 cash seizures we reviewed, 107 experienced unnecessary delays in depositing cash into the Asset Forfeiture Fund or interest bearing commercial bank accounts. Customs had no established standard for depositing seized and forfeited cash. Department of the Treasury procedures for federal agencies, however, require deposits to a Treasury account when collections total $1,000 or once a week, which ever comes first (6 TFM 8030.30). However, due to insufficient information, we were unable to determine the exact day that should have been used to measure compliance with the Treasury procedures. Therefore, to insure that our computation of delays was conservative, we allowed 14 days after forfeiture or 14 days after the decision to deposit preforfeited cash before identifying deposit delays.

As shown in Table 2, $32 million of the funds we reviewed experienced deposit delays.

TABLE 2
FREQUENCY OF DEPOSIT DELAYS 1/
MIAMI AND LOS ANGELES

129 CASES $39.1 MILLION



1/ 14 DAY GRACE PERIOD

Of the 107 cases with deposit delays, 81 involved delays in depositing forfeited cash into the Customs Forfeiture Fund. As shown in Table 3, the delays occurred on large and small seizures, ranging from a low of $3 to $4.2 million and varied from a delay of 2 days to 1,807 days.

TABLE 3

Length of Deposit Delays After Forfeiture*
Miami and Los Angeles Combined

AMOUNT (000)	DAYS 2 to 182	DAYS 183 to 365	DAYS 366 to 1,807	TOTAL
$1,000 to 4,203	5	0	0	5
500 to 999	2	2	1	5
100 to 499	6	5	6	17
50 to 99	9	5	2	16
< 49	11	9	18	38
Totals	33	21	27	81

* After allowing 14 days after forfeiture or, in one case, after the decision to return the cash to its owner less a penalty assessed for nonreporting of the money.

The remaining 26 cases with deposit delays were undergoing forfeiture processing at the time of our review. Cash that is not yet forfeited to the government should be deposited before forfeiture if the government determines that the cash is not needed as evidence or there is a court order or written agreement with the petitioner allowing deposit of the cash. Although one of these conditions was present in the 26 cases we identified, there were delays exceeding 14 days before the cash was deposited.

Another delay which results in losses to the government occurs when monetary instruments, such as personal checks, are not converted within a reasonable time. Checks can become "stale-dated" and returned unpaid by banks. In two of the cases we reviewed, checks totaling $30,500 were returned unpaid by the banks because the items were too old.

EFFECTS OF DELAYS

The economic benefits foregone because of the delay in depositing cash is substantial. For example, of the 107 cases with deposit delays, 81 involved cash that had been forfeited to the government. We estimate that for the 81 forfeited cases, $518,849 could have been earned on the money during the time the cash sat idle in Customs vaults or in interest bearing accounts. (See table 4.)

TABLE 4

Economic Benefits Foregone Due to Delay* In Depositing Seized Cash After Forfeiture

Location	No. of cases	Amount (millions)	Total Benefits Foregone**
Miami	60	$17.7	$345,043
Los Angeles	21	6.5	173,806
Totals	81	$24.2	$518,849

*After allowing 14 days after forfeiture or penalty assessment.

**We selected 7 percent as an approximation of the rate earned on funds invested in the Treasury Tax and Loan account.

CAUSE OF DELAYS

There were several causes for the delays in depositing seized and forfeited cash. There was no national policy or oversight over seized cash management and information to account for the cash and to adequately monitor case status was inadequate.

For example, at the Miami and Los Angeles district offices, delays in notifying the appropriate units of a change in case status and failure to act when notified of such change were among the reasons for the delays in the cases we analyzed. Table 5 summarizes the frequency of the reasons we identified for those cases.

TABLE 5

Reasons for Deposit Delay

Causes	Number of Cases
1. Custodian did not deposit cash when notified	33
2. FPF* delayed or took no action after being notified of forfeiture or non-evidentiary decision	22
3. No record of case	6
4. Regional counsel delayed notifying FPF of change in case status	2
5. Combination of above	28
6. Lack of justification to support evidentiary need	16
7. No delays	22
Total	129

* Fines, Penalties and Forfeitures Unit

Neither Miami nor Los Angeles had readily available inventory information which would allow personnel to know how much cash was on hand or to routinely monitor and follow up on cash seizure cases. Local officials said that on hand cash could only be determined by tabulating the amounts listed in a card file. The card file, however, was inaccurate. For example, we inventoried the cash on hand in Miami and identified 12 cases, totaling $1.2 million, listed in the file which had already been disposed of or cases which were on hand but not listed.

At headquarters, although Customs has established policies and accountability for seized property management, seized cash was inadvertently overlooked. Consequently, there has been a lack of policy and clear line of responsibility for seized cash management. For example, headquarters had no information on how much seized cash was on hand or where it was located, and oversight of seized cash management was nonexistent. A description of these and related internal control breakdowns at the time of our review follow:

1. There is no national policy or organizational unit ultimately responsible for seized cash management.

2. There is no national inventory of seized cash, including information on amount and location of cash deposited in interest bearing bank accounts.

3. The accounting system for seized property is substandard. In its Federal Managers' Financial Integrity Act Report, Customs identified instances of nonconformance with the Comptroller General's Accounting Principles and Standards. The Federal Manager's Financial Integrity Act (P.L. 97-255) requires agency internal control and accounting systems to comply with standards specified by the Comptroller General. Under the act, agency heads must report to the President and Congress by December 31 each year as to whether their systems fully comply with the act.

   Although Customs identified system weaknesses in accounting for seized property, none were identified for seized cash in its Fiscal Year 1986 Integrity Act report to the Secretary of the Treasury. For example, there is no accounting of seized cash until it has been deposited into the Customs Forfeiture Fund. We subsequently discussed the Customs omission with Treasury officials and, at our suggestion, the Secretary of the Treasury included the seized cash management problems in his Integrity Act report.

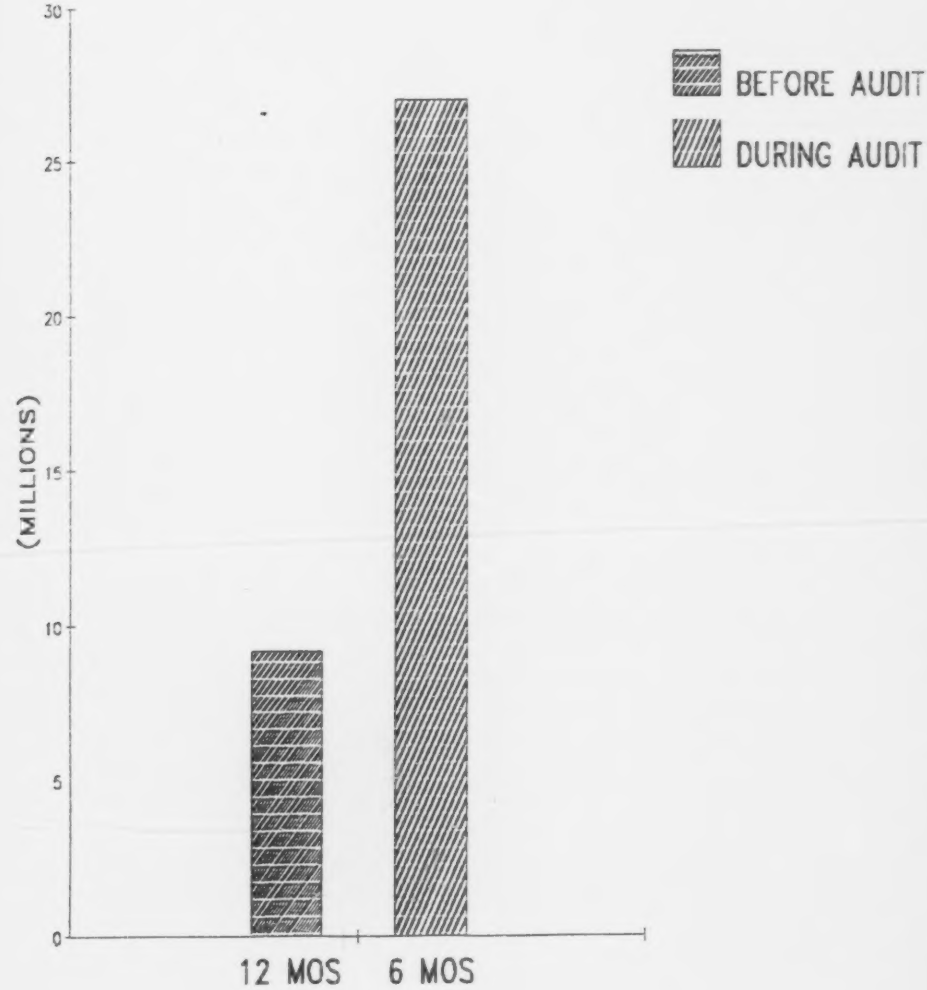
4. There were no audits of seized cash nationally and, other than cash counts, there were no local audits of seized cash in Miami and Los Angeles.

Also, Customs' practice of depositing non-evidentary cash pending forfeiture into interest bearing commercial bank accounts differs from the practice followed by the Department of Justice which deposits such cash into its Seized Asset Deposit Fund -- a U.S. Treasury Account. We favor Justice's practice because it gets the money more quickly into a U.S. Treasury account, thus providing better control and higher economic benefits to the government. Customs' lack of a Treasury Deposit account has led to sporadic depositing of pre-forfeited cash into commercial bank accounts at below-Treasury interest rates. For example, as of October 1, 1986, Miami had $19.4 million deposited in three banks at interest rates varying from 3.6 to 5.4 percent. As of October 15, 1986, Los Angeles had about $1.7 million deposited in various banks at rates varying from 5.25 to 7.75 percent over the life of the accounts. The U. S. Treasury rate during the applicable period varied from 6 to 19 percent.

CORRECTIVE ACTIONS BEING TAKEN

Customs has cooperated fully in our review, both at the district and headquarters offices, and has begun to take action as a result of our audit. For example, the Los Angeles and Miami districts are now reviewing the case files and depositing cash when appropriate. Table 6 shows that Customs deposited $27.0 million during the 6 month period ending December 31, 1986, the timeframe since we began our field work, as compared to $9.1 million for the entire year ending June 1986.

TABLE 6
CUSTOMS' SEIZED CASH DEPOSITS AT MIAMI AND LOS ANGELES



Also, in February 1987, Customs officials in Los Angeles established a policy of depositing forfeited cash into the Customs Asset Forfeiture Fund within 7 calendar days. Further, the Customs' Special Agent-in-Charge "assigned an Agent Coordinator position" to respond to the Fines, Penalties and Forfeitures unit's inquiries on the status of evidentiary cash.

Headquarters is also taking corrective action. For example, Customs has drafted a national policy on seized cash and has established the National Finance Center as the focal point for seized cash management. Officials told us that the policy will include a time standard for depositing forfeited cash and for periodically reassessing any cash that is being held as evidence. As discussed earlier, Treasury procedures require that deposits be made when collections total $1,000. If Customs cannot comply with this requirement, it should begin the necessary preparations for depositing the cash when it is seized so that the deposit can be made promptly when deposit approval is received.

Customs is also implementing national inventory capabilities in its automated commercial accounting system with oversight by National Finance Center officials. Finally, Customs is considering establishment of a Seized Asset Deposit Fund similar to Justice's.

GAO RECOMMENDATIONS

We recommend that the Customs Commissioner:

1. Ensure that the following ongoing corrective actions are completed:
    a. Establishment of a National Policy on seized cash
    b. Establishment of a seized cash national inventory information system

2. Require periodic audits of seized cash.

3. Establish a Seized Asset Deposit Fund to be used for depositing non-evidentiary cash pending forfeiture instead of depositing it in interest-bearing bank accounts.

4. Insure that identified seized cash and accounting system weaknesses are corrected, including prompt depositing of non-evidentiary cash and periodic reassessments of the evidentiary need for cash being held as evidence.

5. Report the seized cash weaknesses under the Integrity Act until the corrective actions have been substantially completed.

SCOPE OF DEA REVIEW

We intended to conduct our DEA review in the Miami, Los Angeles and New York Field Divisions because they accounted for 53 percent of the estimated $124 million DEA had on hand in January 1986. Because the cases were still open, DEA wanted to first review the files before we reviewed them to remove sensitive information. According to DEA officials, sensitive information included agents and defendants names, inspection reports, and law enforcement techniques and practices used in developing and prosecuting a case.

DEA later requested that we cancel or suspend our review because it had established a task force to review and eliminate a backlog of 9,500 seizure cases. Consequently, we have not developed case file information on the extent of DEA delays in depositing seized cash, economic benefits foregone, and the causes of any delays. However, as the following information shows, DEA has problems similar to those we identified in Customs' program.

INFORMATION SHOWING DEA HAS SEIZED CASH MANAGEMENT PROBLEMS

During the July through October 1986 period of our audit, the Los Angeles Field Division had $35 million in vaults and safety deposit boxes. Los Angeles officials told us that they recognized much of this money should be deposited, and they had begun to do so. They said further that 90 percent of their seized cash is never used as evidence. As of February 28, 1987, $25.9 million of the $35 million had been deposited with the U.S. Treasury.

As of October 1986, the New York Field Division had an estimated $26 million on hand. Vault records showed hundreds of cases which are at least one year old, including cash seized as far back as 1970. Correspondence between local DEA officials and the U.S. Attorney (Southern District) reveals that the current status of this cash is unknown.

DEA also lacks accurate seized cash inventory information. For example, in visiting DEA's New York and Los Angeles Field Divisions we noticed the following illustrations of inventory inaccuracies.

1. In October 1986, New York reported $26 million on hand versus $36 million reported by DEA headquarters. According to New York officials, the headquarters inventory omitted some cases, included double entry of some cases, and had other inaccuracies because

of keypunch errors in entering the data into the system.

2. There were $5.4 million in inventory discrepancies between Los Angeles and headquarters. Also, in reviewing cash on deposit, we noted additional discrepancies of $731,717 between Los Angeles and bank records.

We also requested DEA to provide us with its national inventory of seized cash. Although DEA has an automated inventory, it did not use this data to respond to our request. Instead, on October 30, 1986, DEA requested its Special-Agents-In-Charge to provide headquarters with the inventory information requested so it could respond to our request.

DEA inspection findings have identified continuing violations of seized cash policies and procedures as shown in table 7. Inspection identified 118 control weaknesses during the 3-year period ending July 1986. At least 10 of DEA's 19 Field Divisions had weaknesses in each of the five categories listed in the table.

TABLE 7

Seized Cash DEA Inspection Findings For Three Year Period Ending July 1986

Control weaknesses	No. of Weaknesses	Field Divisions	Percent With Weaknesses
Inadequate physical security or not in compliance with agency requirements.	19	11	58
Inaccurate inventory	29	12	63
Inadequate separation of duties	14	10	53
Inadequate/inaccurate case documentation and control reports, ledgers, and records.	39	18	95
Delays in processing cases	17	16	84
Total	118		

In March 1986, we reported that 1983 problems with DEA's asset seizure and forfeiture case tracking and inventory systems still existed. The systems did not readily provide data on the total amount, type, or value of seized assets. We also reported problems with DEA's accounting system. For example, in DEA's Los Angeles divisional office, reconciliations of headquarters and field records for seized money, obligations, and expenditures were found to be backlogged as much as 2 years.

DEA has acknowledged that its seized property program has extensive problems. In Integrity Act reporting for fiscal year

1986, both DEA and Justice reported weaknesses in DEA's seized property program. In complying with the Integrity Act, DEA reported to the Attorney General in November 1986 that "significant management and internal control improvements are still required in the areas of processing forfeiture actions, recordkeeping, and the maintenance and disposal of property seizures". According to DEA, the backlog in recording and disposing of assets prevented DEA from promptly contributing funds to the Asset Forfeiture Fund and led to additional storage costs, erosion of asset value and deprived participating state and local law enforcement agencies of their share of asset proceeds.

In January 1987, a DEA task force began reviewing and eliminating a backlog of 9,500 seizure case files. According to DEA, there were (1) about 5,000 files dated from April 24, 1986, to October 30, 1986, on which no action had been taken other than notifying interested parties, including advertising, and review for referral of claim and cost bonds and (2) about 4,500 files which predated April 24, 1986, on which no action subsequent to notice and advertisement had been taken. This backlog applies to seized cash as well as other property seizures. DEA could not provide us with an estimate of the cash associated with this processing backlog.

On November 20, 1986, the Deputy Attorney General announced a comprehensive study of seizure/forfeiture which is designed to identify areas where improvements are needed. We have briefed the study team on our review.

All of the above information indicates that more progress needs to be made to resolve the lack of accurate and reliable asset seizure and forfeiture information to monitor the program nationally, a problem which we first identified in 1983 and again in 1986.

GAO RECOMMENDATIONS

To assure that the problems in DEA's seized property program are resolved, we recommend that the DEA Administrator:

1. Provide the Subcommittee with the results of the Task Force's review in eliminating DEA's 9,500 case backlog.

2. Assure that the identified seized property and accounting system weaknesses, including resolving inspection findings, are corrected.

3. Include the seized property and accounting system weaknesses in DEA's Integrity Act report until they are substantially corrected.

In closing, I want to point out that numerous persons within Customs Service and Justice are working to improve seized property management. With their efforts and the continued support of this Subcommittee, we anticipate substantial progress in resolving the problems discussed today.

This completes my prepared remarks. My colleagues and I will be happy to answer any questions.

GAO REPORTS AND TESTIMONIES ON ASSET SEIZURE AND FORFEITURE

1.	Drug Enforcement Administration's Use of Forfeited Personal Property	GAO/GGD-87-20 December 10, 1986
2.	Statement of Arnold P. Jones Before the Committee on the Budget, United States Senate, On Customs' Management of Seized and Forfeited Cars, Boats, and Planes	Statement April 3, 1986
3.	Improved Management Processes Would Enhance Justice's Operations	GAO/GGD 86-12 March 14, 1986
4.	Better Care and Disposal of Seized Cars, Boats, and Planes Should Save Money and Benefit Law Enforcement	GAO/PLRD-83-94 July 15, 1983
5.	Asset Forfeiture - A Seldom Used Tool In Combatting Drug Trafficking	GAO/GGD-81-51 April 10, 1981

OBJECTIVES, SCOPE AND METHODOLOGY

Our objectives were to determine if seized cash was deposited timely and whether relevant internal controls complied with Federal Managers' Financial Integrity Act requirements. The goal of this legislation is to reduce fraud, waste and abuse in government operations by strengthening internal control and accounting systems.

Our review focused on DEA and Customs Service because the majority of seized cash subject to forfeiture is in their custody. However, we also interviewed other Justice Department officials who participate in the government's seizure/forfeiture activities, including officials from the U. S. Marshals Service, Office of the Deputy Attorney General, Office of Associate Attorney General, Criminal Division, and Justice Management Division.

We used July 1986 vault/safety deposit records at Customs in Miami and Los Angeles to identify the amount of on hand cash and year of seizure for each cash seizure case. We stratified this data by dollar size and year of seizure to select cases for detailed case file review. We analyzed cash seizures which were (1) deposited during the July through October 14, 1986 period and (2) seizures on hand as of October 1986 when we began our review of case files. We included the July-October deposited cases in our review because the deposits occurred after we first brought the problem of untimely deposits to Customs attention but before we began our detailed review of case files.

In reviewing the files, we used a uniform data collection instrument to collect information, including (1) dates of seizure and forfeiture, (2) causes for deposit delay, if applicable, and (3) whether a determination that cash was needed as evidence had been made.

The Customs Miami and Los Angeles Districts had 357 cases totaling $73.1 million on hand in October 1986. We excluded from our review all on hand cases that were seized in fiscal year 1986 because certain administrative and legal requirements must be satisfied in many seizures before the cases are closed. This reduced the on hand cases available for review to 136 which totaled $24.7 million. In addition, Miami and Los Angeles had 95 cases totaling $18.7 million which had been deposited during the July-October 14, 1986 period. We selected for review a stratified, random sample of these on-hand and deposited cases except that we reviewed all of Los Angeles cases meeting our criteria. Tables 8 and 9 summarize our selection of cases for review.

TABLE 8

Scope of GAO Review After Excluding Fiscal Year 1986 On Hand Cases

	On Hand*		Deposits**		Totals	
Location	Number	Amount (millions)	Number	Amount (millions)	Number	Amount (millions)
Miami	105	$18.1	85	$14.2	190	$32.3
Los Angeles	31	6.6	10	4.5	41	11.1
Totals	136	$24.7	95	$18.7	231	$43.4

*Miami on hand inventory information as of October 1, 1986.
Los Angeles on hand inventory information as of October 15, 1986.

**Miami deposits during the period July 1 through September 30, 1986.
Los Angeles deposits during the period July 1 through October 14, 198

TABLE 9

Actual Seizure Cases Reviewed by GAO

Location	On Hand*		Deposits**		Totals	
	Number	Amount (millions)	Number	Amount (millions)	Number	Amount (millions)
Miami	49	$14.6	39	$13.4	88	$28.0
Los Angeles	31	6.6	10	4.5	41	11.1
Totals	80	$21.2	49	$17.9	129	$39.1

*Miami on hand inventory information as of October 1, 1986.
Los Angeles on hand inventory information as of October 15, 1986.

**Miami deposits during the period July 1 through September 30, 1986.
Los Angeles deposits during the period July 1 through October 14, 1986

We also assessed the adequacy of internal controls, including (1) the adequacy of physical inventories (2) the separation of duties among responsible personnel and (3) compliance with policies and procedures governing the sealing and safeguarding of cash evidence.

We agreed to headquarters officials accompanying us on several of our field visits so that corrective actions could be initiated before the completion of our work.

Our audit work was performed in Washington, D.C.; Miami, Florida; New York, New York; and Los Angeles, California. We made our review from April 1986 to February 1987 in accordance with generally accepte government auditing standards.

GAO RESPONSE TO A WRITTEN QUESTION

Question. We understand that in Los Angeles Customs pays monthly to store millions of dollars in seized monies, and that the costs to store these monies is charged to the Customs Forfeiture Fund. How much is Customs paying for this service?

Answer. Mr. Chairman, in Los Angeles millions in seized monies are stored at the facilities of Brinks Incorporated. GAO found that in July 1986, the Customs district office negotiated a contract with Brinks for the storage of seized monies, and for pickup and delivery services regarding these monies. The contract calls for Customs to pay $100 per million in storage, and an $800 minimum charge (four hours) for pickup and delivery services. Any time in excess of this four hour minimum is charged at a rate of $200 per hour. These rates apply for amounts under $1 million. Rates on delivery and pickup of amounts over $1 million are negotiated.

For the $20 million in storage during the month of December 1986, the forfeiture fund was charged $2,000 for that months storage. Since the start of this service in July 1986, Brinks has billed Customs $31,810, through Janaury 1987 for their services.

PREPARED STATEMENT OF WILLIAM VON RAAB

MR. CHAIRMAN, I AM PLEASED TO HAVE THE OPPORTUNITY TO APPEAR BEFORE THIS COMMITTEE TO ADDRESS THE HISTORY AND CURRENT POLICIES AND PROCEDURES OF THE UNITED STATES CUSTOMS SERVICE REGARDING TREATMENT OF SEIZED CURRENCY.

EACH YEAR THE UNITED STATES CUSTOMS SERVICE SEIZES MILLIONS OF DOLLARS IN CASH AND OTHER MONETARY INSTRUMENTS. AUTHORITY TO SEIZE CURRENCY AND MONETARY INSTRUMENTS IS PROVIDED THROUGH SEVERAL LAWS AND STATUTES ENFORCED BY CUSTOMS, AMONG THEM IS THE CURRENCY AND FOREIGN TRANSACTIONS REPORTING ACT AND THE CONTROLLED SUBSTANCES ACT. CUSTOMS HAS A RESPONSIBLITY TO ENSURE THAT SEIZED CURRENCY IS PROPERLY CONTROLLED AND MANAGED FROM THE TIME OF THE INITIAL SEIZURE THROUGH THE FINAL DISPOSITION. SOME OF THE ISSUES RELATED TO THIS PROCEDURE INCLUDE (1) ACTUAL PHYSICAL HANDLING OF THE SEIZURE, (2) RESOLUTION OF THE LEGAL REQUIREMENTS INVOLVING THE EVIDENTIARY NATURE OF SEIZED CASH, (3) INVENTORY AND ACCOUNTING OF SEIZED CURRENCY, AND (4) CASH MANAGEMENT.

HIGHLY SUCCESSFUL ENFORCEMENT ACTIONS HAVE GENERATED OVERWHELMING NUMBERS OF SEIZURES. FOR EXAMPLE OPERATION BUCKSTOP IN SOUTH FLORIDA GENERATED OVER $7 MILLION SEIZED IN ONE THREE WEEK PERIOD. THE OVERALL NUMBER AND QUALITY OF CURRENCY AND MONETARY INSTRUMENT SEIZURES HAVE BEEN INCREASING SIGNIFICANTLY. IN FY 84 CUSTOMS SEIZED $67.7 MILLION, IN FY 85 SEIZURES TOTALED $95.8 MILLION AND IN FY 86 SEIZURES ACCUMULATED TO $96.1 MILLION.

With its successes, Customs has found itself placed in an increasingly difficult position since most U.S. Attorneys require that seized currency be kept intact for prosecuting cases. Hence, it cannot be deposited into local bank or Treasury accounts but must be stored in vaults during the judicial process, which ranges from 6 months to several years.

When U.S. Attorneys decide that seized currency need not be held for evidentiary reasons or when a violator stipulates that seized currency can be deposited, then Customs does deposit those funds in interest-bearing accounts.

The Customs Service is constantly striving to improve its procedures and policies regarding the management of seized currency. We have consulted the Federal Reserve Board about alternatives to storing seized currency which must be retained for evidentiary purposes. The Federal Reserve Board has concluded that if seized funds are deposited to the credit of Treasury and then invested, the Federal Reserve's reaction will be to sell securities in the open market, reducing the Federal Reserve's portfolio of government securities and the earnings on those securities. We understand this to mean that there is no advantage to using investment accounts and that depositing available funds to a Treasury deposit account will be more advantageous to the government in that it reduces the problems of ensuring the security of the cash.

CUSTOMS CURRENTLY HAS APPROXIMATELY $96 MILLION IN UNFORFEITED CASH/MONETARY INSTRUMENTS ON HAND. OF THIS AMOUNT APPROXIMATELY $25 MILLION HAS BEEN DEPOSITED IN INTEREST-BEARING ACCOUNTS. THE BALANCE OF THE CURRENCY/MONETARY INSTRUMENTS ARE STORED IN VAULTS AT COMMERCIAL BANKS, FEDERAL RESERVE BANKS, PRIVATE SECURITY FIRMS, AND CUSTOMS FACILITIES. THE STORAGE DECISION IS MADE AT DISTRICT OFFICES BASED ON THE BEST AVAILABLE AND MOST SECURE LOCATION.

EVOLUTION OF CUSTOMS POLICY ON SEIZED CURRENCY

I WOULD LIKE TO PROVIDE MORE DETAILS ON THE EVOLUTION OF OUR POLICY AND RECENT ACTIONS TO IMPROVE OUR CONTROLS OVER SEIZED CURRENCY. BEFORE MARCH 1979, THE CUSTOMS SERVICE RETAINED IN STORAGE ALL CURRENCY AND BEARER MONETARY INSTRUMENTS SEIZED UNDER 31 U.S.C 1102 (NOW CODIFIED AS 31 U.S.C. 5317) UNTIL COMPLETION OF THE INVESTIGATION AND ANY FORFEITURE PROCEEDINGS OR RELATED CIVIL OR CRIMINAL LITIGATION. HOWEVER, THE TREASURY DEPARTMENT FELT THAT IN MANY INSTANCES INDIVIDUALS FROM WHOM NON-EVIDENTIARY MONETARY INSTRUMENTS WERE SEIZED SUFFERED FINANCIAL HARDSHIPS AND THE LOSS OF INTEREST DURING THE SEIZURE PERIODS, EVEN IF THE INSTRUMENTS WERE ULTIMATELY RETURNED. TO ALLEVIATE THAT PROBLEM, THE CUSTOMS SERVICE BEGAN TO USE A STIPULATION PERMITTING NON-EVIDENTIARY SEIZED CURRENCY AND BEARER MONETARY INSTRUMENTS TO BE DEPOSITED IN AN INTEREST-BEARING ACCOUNT AT LOCAL BANKS TO AWAIT THE OUTCOME OF ADMINISTRATIVE AND/OR JUDICIAL PROCEEDINGS.

IN THE ENSUING YEARS, AN ISSUE AROSE AS TO WHETHER SEIZED CURRENCY CONSTITUTED "PUBLIC MONIES" REQUIRED TO BE DEPOSITED IN THE U.S. TREASURY PURSUANT TO 31 U.S.C. 484 AND 495 (NOW CODIFIED AS 31 U.S.C. 3302). THE POLICY WAS MODIFIED TO SEEK A STIPULATION TO DEPOSIT THE FUNDS INTO A SPECIAL "SUSPENSE" ACCOUNT OF THE TREASURY AND NOT INTO A GENERAL ACCOUNT OF THE TREASURY WHILE AWAITING THE FINAL DISPOSITION OF THE CASE.

HOWEVER, THIS POLICY WAS LATER QUESTIONED BASED ON THE LEGAL PREMISE THAT UNLIKE THE MAJORITY OF CUSTOMS SEIZURE AND FORFEITURE ACTIONS WHERE UPON COMMISSION OF THE ILLEGAL ACT THE PROPERTY IS DEEMED FORFEITED TO THE GOVERNMENT AND JUDICIAL CONDEMNATION PROCEEDINGS MERELY PERFECT TITLE IN THE GOVERNMENT, IN A CURRENCY SEIZURE AND FORFEITURE PROCEEDING, THE GOVERNMENT STANDS AS A CLAIMANT AND OWNERSHIP REMAINS WITH THE ORIGINAL OWNERS UNTIL THE COURT DECIDES OTHERWISE. AS A RESULT, IN 1983 OUR POLICY WAS AGAIN MODIFIED TO RETURN TO THE EARLIER PRACTICE OF DEPOSITING NON-EVIDENTIARY SEIZED CURRENCY IN AN INTEREST-BEARING ACCOUNT AT A LOCAL BANK PROVIDED A STIPULATION WAS RECEIVED FROM ALL CLAIMANTS AND INTERESTED PARTIES.

EVEN THOUGH CUSTOMS WOULD LIKE TO SEE ALL SEIZED CURRENCY PROMPTLY DEPOSITED, THERE ARE FACTORS BEYOND OUR CONTROL WHICH MAKE THIS GOAL UNATTAINABLE. FOR EXAMPLE, IT HAS BEEN OUR EXPERIENCE SHOULD A CRIMINAL INVESTIGATION BE CONDUCTED AND/OR A CRIMINAL PROSECUTION BE INSTITUTED, THE DEPARTMENT OF JUSTICE AS WELL AS THE COURTS HAVE MANDATED THAT SEIZED CURRENCY BE RETAINED AS EVIDENCE DURING TRIAL AND ANY SUBSEQUENT APPEALS. IN CIVIL MATTERS, IF THE ALLEGED OWNER OR CLAIMANT REFUSES TO AGREE TO A STIPULATION PROVIDING FOR THE DEPOSIT OF THE SEIZED CURRENCY IN AN INTEREST-BEARING ACCOUNT THE CUSTOMS SERVICE CANNOT UNILATERALLY DEPOSIT THE CURRENCY.

WE REVIEWED 131 CASE STUDIES IN LOS ANGELES AND MIAMI TO DEVELOP PROFILES ABOUT CUSTOMS ABILITY TO IMMEDIATELY DEPOSIT SEIZED CURRENCY. WE FOUND THAT IN 54% OF THE CASES, SEIZED CURRENCY COULD NOT BE DEPOSITED PRIOR TO FORFEITURE SINCE THE CURRENCY WAS NEEDED AS EVIDENCE. IN 26% OF THE CASES, THE ABSENCE OF A STIPULATION PREVENTED CUSTOMS FROM DEPOSITING THE SEIZED CURRENCY. IN 20% OF THE CASES, HOWEVER, THE SEIZED CURRENCY WAS DEPOSITED PRIOR TO FORFEITURE AS A RESULT OF STIPULATION, COURT ORDER, OR U.S. ATTORNEY INSTRUCTIONS.

We also evaluated the timeliness of seized currency deposits after forfeiture using a standard of 2 weeks from date of forfeiture to date of deposit. We found that in 7% of the cases a continuing evidentiary need precluded deposit. In 7% of the cases the seized currency was deposited within Customs timeframe of 10 days or less. In 89% of the cases, deposit was made more than two weeks after forfeiture due primarily to Customs processing."

Actions to Improve Seized Currency Management

Control measures are being standardized and strengthened within the Customs Service for managing and reporting seized currency/monetary instruments. Regional and District/SAC offices exercise physical control measures over seized currency and monetary instruments consistent with established guidelines for the rules of evidence. It is recognized that as a result of this policy a diversity of seized currency/monetary instrument handling techniques have been utilized. Customs is currently in the process of developing a more uniform policy to improve and standardize techniques.

Actions have been taken to assure that all abandoned currency/monetary instruments are identified and their status recorded in an automated inventory and reporting system which should be implemented in April 1987.

EACH CASE WILL BE RECORDED IN AN ON-LINE INVENTORY SYSTEM AT THE TIME OF SEIZURE. MONTHLY REPORTS WILL BE ISSUED WHICH REFLECT THE STATUS OF EACH CASE. THE NATIONAL FINANCE CENTER WILL ANALYZE REPORTS AND FOLLOW-UP WITH DISTRICT AND SAC OFFICIALS TO ASSURE THAT EVIDENTIARY CASH IS REASSESSED, THAT NONEVIDENTIARY CURRENCY IS TIMELY DEPOSITED INTO APPROPRIATE ACCOUNTS, AND THAT FORFEITED CURRENCY/MONETARY INSTRUMENTS ARE TIMELY DEPOSITED TO THE CUSTOMS FORFEITURE FUND FOLLOWING FORFEITURE AND FINAL CASE DISPOSITION. A PILOT TEST OF THE CURRENCY TRACKING SYSTEM IS ALREADY UNDERWAY IN LOS ANGELES AND MIAMI. FOLLOWING EVALUATION OF THE TEST,THE REMAINING CUSTOMS DISTRICT/SAC OFFICES WILL BE BROUGHT ON-LINE. THE INVENTORY SYSTEM IS SCHEDULED TO BE FULLY ACTIVATED ON APRIL 13, 1987.

IN ADDITION, WE ARE EXPLORING MORE EFFECTIVE AND EFFICIENT METHODS FOR DEPOSITING SEIZED CASH ONCE IT HAS BEEN STIPULATED, FORFEITED, AND/OR THE CASE/JUDICIAL ACTION HAS BEEN TERMINATED. THE PRINCIPAL CONCERN IS THE LEAST COSTLY AND MOST SECURE METHOD OF TRANSPORTING AND DEPOSITING THE FUNDS. ALTERNATIVES TO USING ACCOUNTS WITH LOCAL COMMERCIAL BANKS ARE DEPOSITING INTO A UNIQUE ACCOUNT IN THE GENERAL FUND OF THE TREASURY USING THE SAME PROCEDURE AS FOR OTHER CUSTOMS COLLECTIONS, OR DEPOSITING WITH THE LOCAL FEDERAL RESERVE FOR CREDIT TO THE SAME GENERAL FUND ACCOUNT. WE WILL BE CONSIDERING THESE AND OTHER ALTERNATIVES AND IMPLEMENTING THE BEST IN THE NEAR FUTURE.

AT THIS TIME, I WOULD LIKE TO ACKNOWLEDGE THE GENERAL ACCOUNTING OFFICE FOR THEIR ROLE IN SURFACING SEIZED CURRENCY AS AN ISSUE THAT LAW ENFORCEMENT AGENCIES MUST ADDRESS. WE HAVE A SUBSTANTIAL CASH MANAGEMENT RESPONSIBILITY AND TOWARDS THIS END WE HAVE SPENT CONSIDERABLE EFFORTS SOLICITING GAO'S INPUT IN ADDITION TO THAT OF THE FINANCIAL MANAGEMENT SERVICE OF TREASURY AND THE FEDERAL RESERVE TO CONSTRUCT A CASH MANAGEMENT PROGRAM THAT WILL IMPROVE OUR EFFICIENCY AND ACCOUNTABILITY WITH RESPECT TO SEIZED CASH.

THERE ARE MANY OPPORTUNITIES FOR IMPROVEMENT. IN CONDUCTING THEIR REVIEWS, GAO HAS BEEN MOST OBJECTIVE AND COOPERATIVE IN WORKING WITH CUSTOMS PERSONNEL TO DEFINE CORRECTIVE ACTIONS. FURTHERMORE, WE HAVE WORKED AT GREAT LENGTHS WITH DEPARTMENT OF JUSTICE REPRESENTATIVES TO ANALYZE THE PROBLEMS AND SOLUTIONS ATTENDANT TO EVIDENTIARY REQUIREMENTS. AS A RESULT OF OUR EFFORTS AND THOSE OF OUR COLLEGUES IN OTHER AGENCIES THE EVIDENTIARY ISSUE IS NOW BEING EMPHASIZED

MR. CHAIRMAN, THIS CONCLUDES MY PREPARED STATEMENT. I WOULD BE HAPPY TO RESPOND TO ANY QUESTIONS YOU MIGHT HAVE.

PREPARED STATEMENT OF JAMES I. K. KNAPP

Mr. Chairman and Members of the Subcommittee--

I appreciate the opportunity to appear this morning to discuss federal forfeiture activities and associated cash management policies, practices and procedures.

As you know, the federal forfeiture program entered a new age with enactment on October 12, 1984 of the landmark forfeiture amendments included in the Comprehensive Crime Control Act. Prior to that time, we counted federal forfeitures in the tens of millions of dollars; today we count forfeitures in the hundreds of millions of dollars. Obviously, this transition from a relatively small scale to large scale operation has not occurred without some difficulties, one of which involves the prompt transfer of seized cash into a Treasury account which alleviates some of the debt servicing burden on the United States.

At the Departmental level, we are moving to address all forfeiture related problems which we have confronted. Upon becoming Associate Attorney General last September, Steve Trott named me the Chairman of an expanded Department of Justice Asset Forfeiture Policy Advisory Committee to coordinate the forfeiture activities of all components of the Department of Justice. Since that time, we have taken numerous actions to improve our overall performance on the forfeiture front.

Some of our initiatives directly relate to the cash management issue. For example, one weakness in our forfeiture management system has been the absence of an integrated, Department-wide information system to track all federal forfeiture matters within the Department of Justice. Rather, each component of the Department responsible for forfeiture has developed its own case tracking system. We are, therefore, in the process of putting in place a new computer system, to be known as the AFTRAK system, which will embrace all forfeiture matters without regard to the particular component of the Department responsible for the various cases. The prototype of the new system is expected to be in place by July embracing the FBI, Marshals Service, and Criminal Division with other components of the Department as well as the Postal Inspection Service to be added by the end of the year.

A second contributing factor to delays in placing seized cash in a Treasury account is the backlog in processing of forfeiture cases which has developed due to the tremendous growth experienced in the number of Federal forfeiture actions. We have a program in place to attack the backlog including a task force operation at DEA to process matters there. Among other things, we are seeking to utilize fully the expanded purposes of the Assets Forfeiture Fund, as authorized last year in the Anti-Drug Abuse Act, to mobilize additional resources for processing of forfeiture cases. Under the 1986 amendments, which for the first time permit program-related expenditures from the fund, we are contracting for data entry services, clerical help, analytical services, computer programming and equipment necessary to cut forfeiture processing time. In short, we are giving the backlog a high priority, are beginning to see the results of our efforts, and are optimistic that we will soon have the backlog under control.

Finally, we are seeking to ensure that cash not needed for evidentiary purposes is removed from safes and vaults and placed in the appropriate Treasury account. In this regard, we agree with the General Accounting Office that much of the currency now being held as evidence is not in fact needed for that purpose. There are cases, however, where currency must be held for use as evidence and we want to ensure that we do not--in our desire to place seized currency into the appropriate account--inadvertently jeopardize criminal prosecutions. Our first priority is to secure the conviction of those who ply the nefarious drug trade and our cash management responsibilities, as important as they are, cannot be pursued without a proper regard for the fact that our first duty is to investigate and prosecute drug trafficking.

Again, we agree entirely with the thrust of GAO's testimony as is evidenced by the fact that we put in place in September of 1985 policies designed to ensure that seized cash is expeditiously credited to the appropriate account. Substantial progress has been made in this regard. In September of 1985, approximately $12 million in seized cash had been posted to the account; as of January 31, 1987, that figure had grown to about $73 million. There is much more to do, however, and we are moving as quickly as we can, consistent with our responsibilities, to improve our record in this area.

In conclusion, I should note that our efforts to address the current forfeiture backlog and to improve cash management practices are not being allowed to interfere with the basic thrust of the forfeiture program--to remove the instrumentalities and proceeds of drug trafficking from the control of drug syndicates. DEA is increasing its emphasis upon identifying, tracing, and seizing property forfeitable under the drug laws as we continue to believe that forfeiture represents one of the most effective means of eradicating the organizations involved in the drug trade. The conviction and imprisonment of drug kingpins often merely slows the operations of a drug-trafficking syndicate until others advance to fill the leadership vacuum. By forfeiting the cars, boats, planes, real property, and cash of a drug syndicate, however, we are often able to put a drug operation entirely out of business. That will continue to be our first priority in the forfeiture area as we work to address the cash management and other issues that are ancillary to our fundamental mission.

That concludes my overview and I will now yield to the Drug Enforcement Administration for a discussion of DEA's cash management procedures.

PREPARED STATEMENT OF JAMES J. HOGAN

CHAIRMAN CHILES AND MEMBERS OF THE SUBCOMMITTEE ON FEDERAL SPENDING, BUDGET, AND ACCOUNTING, I AM PLEASED TO APPEAR BEFORE YOU TO DISCUSS THE PROCEDURES EMPLOYED BY THE DRUG ENFORCEMENT ADMINISTRATION (DEA) RELATING TO CONTROLLING, STORING, AND ACCOUNTING FOR SEIZED CASH. DEA SEIZES SUBSTANTIAL AMOUNTS OF CURRENCY AND OTHER FINANCIAL INSTRUMENTS. DURING FY 1986, DEA SEIZED $154.5 MILLION IN CURRENCY, RECOVERED $1.1 MILLION IN CURRENCY, AND SEIZED $15.3 MILLION OF OTHER FINANCIAL INSTRUMENTS.

DEA HAS INTERNAL CONTROL SYSTEMS TO SAFEGUARD SEIZED AND RECOVERED MONIES (RECOVERED MONIES ARE OFFICIAL GOVERNMENT FUNDS WHICH HAVE BEEN PREVIOUSLY EXPENDED IN A DRUG INVESTIGATION). THESE PROCEDURES ARE SET FORTH IN DEA'S DIRECTIVES SYSTEM. I WILL NOW DETAIL THESE PROCEDURES FOR THE SUBCOMMITTEE.

(1) AT THE TIME OF SEIZURE, THE SEIZING AGENT ISSUES A DEA FORM 12 TO THE OWNER (IF KNOWN) IN RECEIPT OF THE SEIZED MONIES. MONIES ARE COUNTED IMMEDIATELY (TWICE) IN THE PRESENCE OF A WITNESSING AGENT AND THE OWNER OF THE MONIES (IF APPLICABLE). IF IMMEDIATE COUNTING IS IMPOSSIBLE, TWO AGENTS TRANSPORT THE MONIES TO THE DEA OFFICE FOR COUNTING.

(2) UTILIZING A COMPUTERIZED SYSTEM, THE AGENT CHECKS THE SERIAL NUMBERS OF THE SEIZED CASH TO DETERMINE WHETHER THE MONIES ARE RECOVERED FUNDS, SEALS THE MONIES IN EVIDENCE ENVELOPS, AND

PREPARES A DEA FORM 453 DOCUMENTING THE PHYSICAL EVIDENCE. IF NOT REQUIRED FOR EVIDENTIARY PURPOSES, RECOVERED FUNDS ARE RETURNED TO THE TREASURY AND DEPOSITED IN DEA'S ACCOUNT.

(3) THE FIELD OFFICE EVIDENCE CUSTODIAN ASSUMES CUSTODY OF THE EVIDENCE ENVELOP, NOTIFIES THE DIVISION CONTROL CLERK AND OBTAINS A CONTROL NUMBER, ENTERS THE SEIZURE IN A MANUAL LOG AS WELL AS A COMPUTERIZED SYSTEM, AND STORES THE EVIDENCE. THE DIVISION CONTROL CLERK MAINTAINS A SEPARATE MANUAL LEDGER DOCUMENTING THIS INFORMATION AS WELL.

(4) SEIZURES ARE STORED IN THE DEA VAULT UNLESS THE SEIZURE EXCEEDS $10,000 OR THE CUMULATIVE HOLDINGS EXCEED $100,000 (THESE ARE STORED IN A FEDERAL RESERVE BANK OR COMMERCIAL SAFETY DEPOSIT BOX). THE EVIDENCE CUSTODIAN MUST BE PRESENT WHENEVER THE DEA VAULT IS OPENED AND TWO EMPLOYEES ARE REQUIRED TO GAIN ACCESS TO THE EVIDENCE STORED IN FEDERAL RESERVE OR COMMERCIAL VAULTS.

(5) ALL TRANSFERS OF CUSTODY FROM THIS POINT, FOR EXAMPLE, TO THE U.S. ATTORNEY OR CLERK OF THE COURT, ARE DOCUMENTED ON THE DEA FORM 12.

(6) THE SEIZING AGENT IS INSTRUCTED TO ENCOURAGE THE U.S. ATTORNEY TO MAKE A DECISION WITHIN FIVE DAYS WHETHER THE MONIES ARE EVIDENTIARY. NONEVIDENTIARY FUNDS ARE DEPOSITED TO THE SEIZED ASSET DEPOSIT FUND (SADF) AT WHICH POINT THE U.S. MARSHALS SERVICE (USMS)

ASSUMES CUSTODY OF THE MONIES. (THE SADF IS A DEPOSITORY FOR NONEVIDENTIARY CASH WHICH HAS NOT YET BEEN FORFEITED. THE FUND WAS ESTABLISHED TO CENTRALIZE MANAGEMENT RESPONSIBILITY OVER NONEVIDENTIARY CASH AND TO MAXIMIZE THE GOVERNMENT'S BENEFIT BY INCREASING THE AMOUNT OF FUNDS IN TREASURY ACCOUNTS. THE USMS IS RESPONSIBLE FOR ADMINISTERING THE SADF.) THIS TRANSACTION IS DOCUMENTED WITH A DEA FORM 48A TO TRANSFER THE MONIES FROM DEA CUSTODY AND USMS FORMS TO RECORD THE ASSUMPTION OF CUSTODY; COPIES ARE SENT TO THE ASSET FORFEITURE UNIT (AFU) IN DEA HEADQUARTERS IN ORDER TO REFLECT FINAL DISPOSITION IN THE COMPUTER SYSTEM. IF THE U.S. ATTORNEY REQUESTS THAT THE MONIES BE HELD FOR EVIDENTIARY PURPOSES, DEA RETAINS CUSTODY.

(7) UPON COMPLETION OF FORFEITURE PROCEEDINGS, THE U.S. MARSHALS SERVICE WILL FOLLOW COURT ORDERS ON THE DISPOSITION OF SEIZED MONIES DEPOSITED IN THE SADF; THE AFU WILL NOTIFY DEA FIELD OFFICES OF DISPOSITION ORDERS ON SEIZED MONIES WHICH ARE IN THE CUSTODY OF THE OFFICE (USUALLY THOSE MONIES WHICH WERE HELD AS EVIDENCE). TO RETURN MONIES TO THE RIGHTFUL OWNER, A DEA FORM 12 IS PREPARED TO TRANSFER CUSTODY OF THE FUNDS AND A DEA FORM 48A TO CLOSE-OUT DEA RECORDS. TO DEPOSIT IN THE ASSET FORFEITURE FUND, THE OFFICE PREPARES A DEA FORM 48A AND DEPOSITS THE MONIES INTO THE DESIGNATED DEPOSITORY.

(8) The Treasury Financial Communications System is used to transmit seized and forfeited monies to the Treasury in order to expedite government use of the monies.

Field office custodians and field division control clerks are required to reconcile their evidence records monthly. Field offices are required also to conduct a physical inventory of seized and recovered monies on a quarterly basis.

DEA's internal controls over seized and recovered monies are effective and firmly entrenched within the field offices. The computerized system is not yet programmed to provide accurate summary data on the amounts of monies held at various stages of the process; however, DEA is working actively to correct this deficiency. In addition, the Department's Asset Forfeiture Tracking System (AFTRAC), which is scheduled to begin operation in December 1987, will also be programmed to gather summary data.

This concludes my prepared statement. I would be pleased to respond to your questions at this time.

Memorandum

Subject

Seized Cash

Date

March 13, 1987

To

All United States Attorneys
and Criminal Division
Section Chiefs
Administrator, DEA
Director, FBI
Commissioner, INS
Director, USMS

From

Stephen S. Trott
Associate Attorney General

The security, budgetary, and accounting problems caused by retention of large amounts of cash is causing great concern within the Department and the Congress. A just released GAO report has estimated that there is $220 million in cash being retained by various federal law enforcement agencies. Consequently, effective May 1st, all currency seized which is subject to criminal forfeiture or to civil forfeiture, is to be delivered to the United States Marshals Service (USMS) for deposit in the USMS Seized Asset Deposit Fund either within sixty days after seizure or ten days after indictment, whichever occurs first.1/ Where appropriate, photographs or videotapes of the seized cash should be taken for later use in court as evidence.

Limited exceptions to this directive, including extensions of applicable time limits, will be granted, on an interim basis, only with the express written permission of the Assistant Attorney General, Criminal Division, and are to be sought through

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1/ This policy does not apply to the recovery of buy money advanced from appropriated funds. To the extent practical, negotiable instruments and foreign currency should be converted and deposited.

the Asset Forfeiture Office, Criminal Division.2/ Retention of currency will be permitted when retention of that currency, or a portion thereof, serves a significant independent, tangible, evidentiary purpose due to, for example, the presence of fingerprints, packaging in an incriminating fashion, or the existence of a traceable amount of narcotic residue on the bills. If the amount of a seizure is less than $5000, permission need not be sought from the Criminal Division for an exception, but any exception granted is to be granted at a supervisory level within a United States Attorney's Office using the above criteria.3/

The co-mingling of cash seized by the government under 21 U.S.C. §881(a)(6), will not deprive the court of jurisdiction over the res. Unlike other assets seized by the government (e.g. real property, conveyances), cash is a fungible item. Its character is not changed merely by depositing it with other cash. While it is true that the jurisdiction of the court is derived entirely from its control over the defendant res, court jurisdiction does not depend upon control over specific cash. As stated in United States v. $57,480.05 United States Currency and Other Coins and $10,575.00 United States Currency, 722 F.2d 1459 (9th Circuit 1984), " ... jurisdiction did not depend upon control over specific bits of currency. The bank credit of fungible dollars constituted an appropriate substitute for the original res." This has been a time-honored practice in the area of civil forfeiture law. See, American Bank of Wage Claims v. Registry of the District Court of Guam, 431 F.2d 1215 (9th Circuit 1970).

Please review your existing cases and property storage sites and make all required transfers or requests for exemption by May 1, 1987.

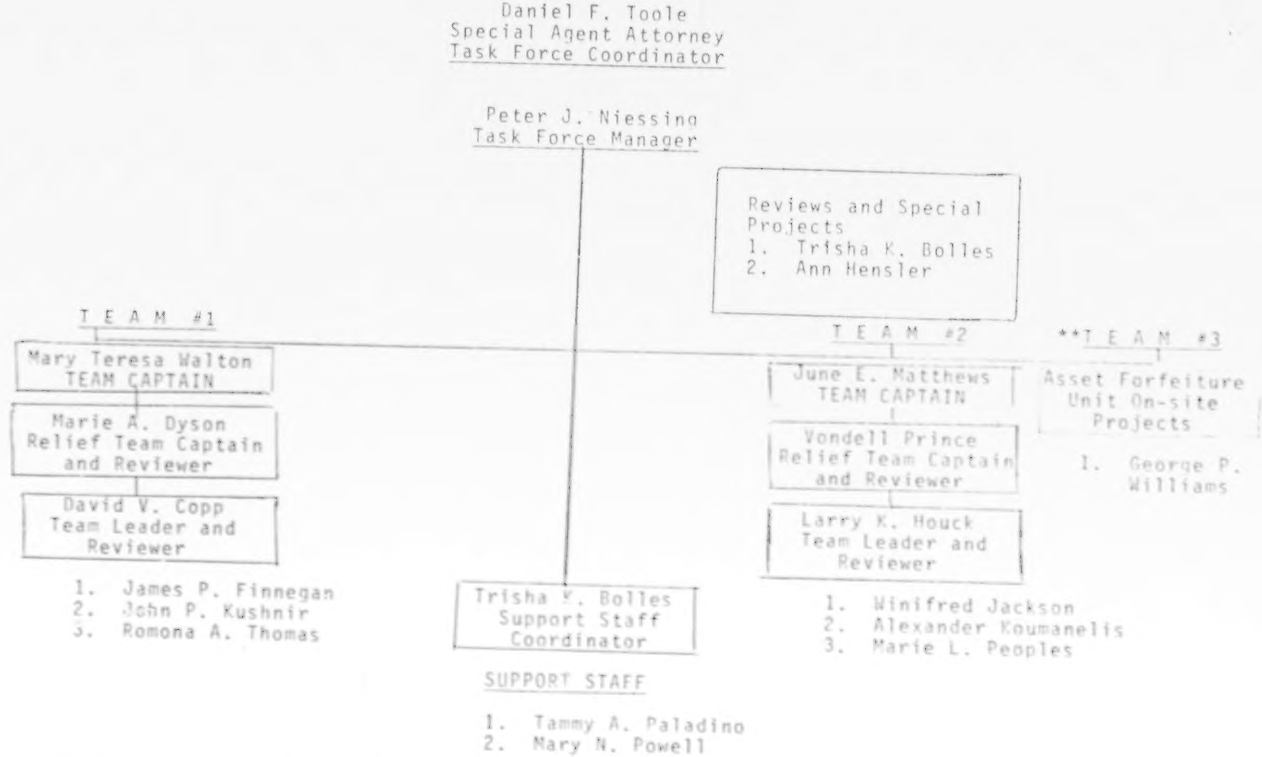
2/ Requests for an exemption will be filed by the United States Attorney's Office or Criminal Division Section responsible for prosecuting, or reviewing for prosecution, a particular case. Investigative agencies holding cash should immediately inventory any cash on hand being retained for evidentiary purposes and consult the appropriate prosecutor's office. While implementation of this policy has been delayed until May 1st in order to give agencies time to complete this inventory, prompt compliance wherever possible would be appreciated.

3/ We will be consulting with the Customs Service regarding this new policy. The criteria and procedure for obtaining exemptions remains the same for cash retained by Customs.

Thank you for understanding the immediate necessity for this directive. It will be reviewed at the next United States Attorneys Advisory Committee meeting to determine whether it requires modification. Additional actions or controls are possible after we have had an opportunity to review the GAO report.

For further information or questions regarding implementation of this policy, contact Brad Cates, Director, Asset Forfeiture Office, Criminal Division, at (FTS) 272-6420.

TASK FORCE ORGANIZATIONAL CHART


Daniel F. Toole
Special Agent Attorney
Task Force Coordinator
Peter J. Niessing
Task Force Manager
Reviews and Special Projects
1. Trisha K. Bolles
2. Ann Hensler
T E A M #1
Mary Teresa Walton
TEAM CAPTAIN
Marie A. Dyson
Relief Team Captain and Reviewer
David V. Copp
Team Leader and Reviewer
1. James P. Finnegan
2. John P. Kushnir
3. Romona A. Thomas
Trisha K. Bolles
Support Staff Coordinator
SUPPORT STAFF
1. Tammy A. Paladino
2. Mary N. Powell
T E A M #2
June E. Matthews
TEAM CAPTAIN
Vondell Prince
Relief Team Captain and Reviewer
Larry K. Houck
Team Leader and Reviewer
1. Winifred Jackson
2. Alexander Koumanelis
3. Marie L. Peoples
**T E A M #3
Asset Forfeiture Unit On-site Projects
1. George P. Williams

** Under direct supervision of the Forfeiture Counsel, completes assigned tasks on Forfeiture record activities generated by the Task Force. This team will be expanded as additional personnel resources become available.

UNITED STATES GOVERNMENT
memorandum 66

DATE: January 12, 1987

REPLY TO ATTN OF: Dennis F. Hoffman Dennis F. Hoffman
Chief Counsel

SUBJECT: Task Force to Review and Process Forfeiture Files
Weekly Status Report

TO: Mr. Thomas C. Kelly
Deputy Administrator

Reference is made to my memorandum, captioned as above, dated December 18, 1986.

The Task Force commenced operation on January 5, 1987. Following orientation, and attendant in - processing, an intensified training program to explain the nuances of civil forfeiture was commenced. This accelerated training activity was completed by close of business, January 6, 1987.

On January 7, 1987, 400 active files were transferred from the Asset Forfeiture Unit to the Task Force work area. The files were subsequently assigned to analysts for processing. As expected, review of files and attendant administrative actions have moved slowly during these first days of the Task Force operation. This is a consequence of numerous questions forthcoming from the analysts, who are inexperienced in asset forfeiture, and the meticulous review thereafter required of those matters processed by the Team Leaders and CAP Program Manager.

The Task Force management team has submitted for my consideration several concrete proposals to accomplish more effective and efficient file management. Each proposal has as its purpose an administrative activity which will permit, in many instances, a seizure file to be referred upon completion (REC'd) to another DEA entity, such as Property Management, or to another Government agency such as the U.S. Marshals Service. The overall purpose of the proposals submitted for my review and decision is to allow cases to be closed by the Office of Chief Counsel upon completion of those administrative actions which are its mandate. At the same time, the proposals correct the misperception that the Office of Chief Counsel is responsible for all asset activity from moment of seizure to final disposition of property. The end result will be that the Office of Chief Counsel asset forfeiture activities will be properly confined to noticing seizures, entering administrative decision of forfeiture, ruling on petitions for remission and/or mitigation of forfeiture, making appropriate recommendations and decisions on sharing requests, referring contested seizures to United States Attorneys and other similar and necessary activities.

See Addendum, page 4.

OPTIONAL FORM NO. 10
(REV. 1-80)
GSA FPMR (41 CFR) 101-11.6
5010-114

☆ GPO : 1985 O - 461-275 (364)

The proposals, which I will hereafter discuss in some greater depth, have been adopted after careful consideration and debate within this office. The proposals have been coordinated with appropriate DEAHQ components.

First, seizures which do not meet the threshhold requirements for processing will be referred back to the submitting DEA office with appropriate notification that the property is to be returned and with the advice that the Office of Chief Counsel is retiring its file and forwarding it to the Records Management Section.

Second, it has been the practice of the Asset Forfeiture Unit, upon referring contested forfeitures to the United States Attorneys to request that the Assistant United States Attorney, in a timely fashion, inform this office of disposition of the case. Response to such requests has been scant at best. Therefore, we will request the field offices to conduct docket reviews communicating the results to the Asset Forfeiture Unit so that matters in litigation may be more accurately followed and hopefully more quickly disposed of.

Third, seizure cases involving forfeited tangible property referred to property management for disposal have remained as active files of the Asset Forfeiture Unit until documentation had been received detailing final disposition of the asset. This information, though pertinent to the CAP program, is not truly relevant to the activities of the Chief Counsel's Office. Thus, cases of this kind which do not involve the sharing of the property with a state or local law enforcement entity will be closed in the Asset Forfeiture Unit.

i.e. placed in DEA Sw

Fourth, seizure cases involving the sharing of forfeited property with state or local law enforcement entities have also remained as active files within the Asset Forfeiture Unit until documentation had been received from DEA field offices that the final transfer of the property had been completed. This information, though pertinent to the CAP program, is not truly relevant to the activities of the this office. Cases of this kind, in which sharing requests have been approved, will be closed in the Asset Forfeiture Unit.

Fifth, seizure cases involving the disposal of forfeited property referred to the U.S. Marshals Service have remained as active files of the Asset Forfeiture Unit until documentation has been received from the U.S. Marshals Service detailing the final disposition of the asset. As in the third and fourth items above, while the disposal information is pertinent to the CAP program, it is not relevant to the activities of the Chief Counsel's Office. Cases of this kind which document the completed referral of property to the U.S Marshals Service for disposition will be closed in the Asset Forfeiture Unit.

Sixth, seizures made between October 1, 1985 and December 31, 1985 by local DEA field offices were reported into the CAP program so that complete FY 1986 seizure information could be obtained. These records are not relevant to the activities of the Asset Forfeiture Unit since the management of these seizures is supervised by the local DEA field office. Cases of this kind, which have been reported for statistical information only, will be closed in the Asset Forfeiture Unit.

In the interest of streamlining the activity and impact of the Task Force, I am implementing the above stated proposals. They will greatly enhance the efforts underway to dispose of numerous seizure files requiring no further action by the Asset Forfeiture Unit.

We will be meeting with Mr. William F. Neaves (FBI Special Agent on detail to DEA), AI early next week to discuss immediate modification of the CAP program data base to include disposition categories to document the referral of completed cases as discussed herein.

This weekly report will not include statistical data since adoption of the above proposals will require further review of files initially transferred to the Task Force for action.

I have attached for your information and review an organizational chart of the Task Force.

Attachment

Chron

Addendum:

The purpose of this addendum is to memorialize decisions made by Mr. Kelly in meeting with Messrs. Dennis F. Hoffman, Daniel F. Toole and Peter J. Niessing on January 20, 1987, to discuss proposals outlined in the Chief Counsel's memorandum to the Deputy Administrator dated January 12, 1987, captioned "Task Force to Review and Process Forfeiture Files, Weekly Status Report."

Mr. Kelly concurred that proposals numbered one, two and five could be implemented as drafted. However, pursuant to Mr. Kelly's instruction, proposals three and four will be approved for use, with the caveat that these categories of cases remain in a "pending inactive status" in the Asset Forfeiture Unit, pending final disposition of the property and entry of that fact into the CAP data base. The Office of Chief Counsel will remain responsible for insuring that other DEA components take the appropriate action to dispose of forfeited assets. Proposal numbered six addresses cases which are the management responsibility of DEA Field Divisions. This category of files will be closed in the Asset Forfeiture Unit. However, if petitions, sharing requests or other related forfeiture activities requiring action are forthcoming, the case will be recalled from the Records Section, and appropriately addressed by the Office of Chief Counsel.

Mr. Kelly interposed no objection for the planned clearance of physical files from the Asset Forfeiture Unit to other DEA record depositories. He also approved the utilization of the additional "disposition codes" to more efficiently and effectively track asset forfeiture activity.

Approved:

Thomas C. Kelly
Deputy Administrator   Date: 1/2/87

Disapproved:

Thomas C. Kelly
Deputy Administrator   Date: ______

CC file
CC chron
DFToole chron
DFHoffman chron

47
AFU
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UNITED STATES GOVERNMENT
# memorandum

DATE: JAN 21 1987

Dennis F. Hoffman

REPLY TO ATTN OF: Dennis F. Hoffman
Chief Counsel

SUBJECT: Task Force to Review and Process Forfeiture Files
Weekly Status

TO: Mr. Thomas C. Kelly
Deputy Administrator

Reference is made to my memorandum, captioned as above, dated January 12, 1987, and our meetings of January 13, 1987 and January 20, 1987.

On January 20, 1987, Mr. William L. Neaves, AI, advised me that the modifications to the CAP data base which you approved earlier that date had been made and tested and would be available for use in processing the forfeiture files on January 21, 1987.

The modifications to the CAP data base which you have approved have been discussed with Ms. Heather A. Campbell, Chief, AMGP, Mr. Don Angell, Chief, AMRI and with Mr. Jeff Fratter of the U. S. Marshals Service. Neither Ms. Campbell nor Mr. Angell interposed any objections to the proposed modifications. With respect to the U. S. Marshals Service (USMS), it was agreed that all forfeited real property and money items deposited to the Seized Asset Deposit Fund (SADF) would be referred by the AFU Task Force to the USMS for action. Cases of this type would be closed by DEA indicating transfer of the matter to USMS. Those cases involving forfeited money items for which no deposit information is available will be referred back to the DEA field office for transfer of funds by the DEA office to the SADF. This office will track such cases until such time as the funds have been deposited in SADF. At that time, the case will be closed indicating a transfer of the matter to USMS.

A policy memorandum has been prepared for the Task Force analysts providing instructions on the processing of sharing requests. This will allow the use of one of four standard responses in completing Part II of the form DAG-72 and will ensure uniform management of sharing requests.

Recognizing the need to ensure that the work of the Task Force is being accomplished pursuant to the detailed instructions provided during training, Mr. Toole has instituted a review process to ensure that the file activity checklist for each file processed is complete, accurate and signed and dated by the responsible Task Force personnel.

OPTIONAL FORM NO. 10
(REV. 1-80)
GSA FPMR (41 CFR) 101-11.6
5010-114

OFFICE : 1984 O - 421-526 (9238)

UNITED STATES GOVERNMENT

memorandum

71

DATE: JAN 27 1987

REPLY TO ATTN OF: Dennis F. Hoffman Dennis F. Hoffman
Chief Counsel

SUBJECT: Task Force to Review and Process Forfeiture Files
Weekly Status Report

TO: Mr. Thomas C. Kelly
Deputy Administrator

The productivity of the Task Force was limited during the past week due to the Federal holiday on Monday, January 19, 1987; the snow emergency of Thursday, January 22, 1987, which necessitated early dismissal of employees; and a limited number of employees reporting for duty on Friday, January 23, 1987, as a result of the continuing effects of the snow storm.

It has been determined that Task Force analysts are able to accomplish forfeiture file processing activities more expediently than the Team Captains and the Task Force Manager are able to execute the necessary review and approval process. Therefore, we will begin using analyst personnel to assist in reviewing processed files. It is expected that this will considerably reduce the time it takes the Task Force to approve a file for release from the Task Force work environment.

Although the Task Force had only two full work days last week, it succeeded in completing and clearing approximately 384 forfeiture files.

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(REV. 1-80)
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5010-114

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memorandum

72

DATE: February 2, 1987

REPLY TO ATTN OF: Dennis F. Hoffman
Dennis F. Hoffman
Chief Counsel

SUBJECT: Task Force To Review and Process Forfeiture Files
Weekly Status Report

TO: Mr. Thomas C. Kelly
Deputy Administrator

The activities of the Task Force were curtailed this past week due to the snow emergency which closed Government offices on Monday, January 26, 1987; resulted in a delayed arrival and liberal leave policy on Tuesday, January 27, 1987, and Wednesday, January 28, 1987; and occasioned a delayed arrival policy on Thursday, January 29, 1987. As a result of the hazardous weather conditions, Friday, January 30, 1987, was the only full work day during the reporting period.

In last week's status-report, I advised of delays encountered in the file review and approval process. This situation has been corrected by restructuring the composition of the Task Force to permit efficient file management with the goal of increasing Task Force productivity without sacrificing quality control. Attached for your information is a copy of the current Task Force organizational chart.

During the limited work week and with reduced staffing, the Task Force completed work on 245 forfeiture files.

Attachment

cc: Ms. Josephine M. Bustos
Program Evaluation Unit
Office of Planning and Evaluation

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(REV. 1-80)
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5010-114

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memorandum

DATE: February 9, 1987

REPLY TO ATTN OF: Dennis F. Hoffman
Chief Counsel

SUBJECT: Task Force To Review and Process Forfeiture Files
Weekly Status Report

TO: Mr. Thomas C. Kelly
Deputy Administrator

During the past week Task Force productivity and efficiency was at its highest level since commencing operation on January 5, 1987. The technical and administrative skills of the employees have noticeably improved. Quality controls demonstrate that Task Force analysts, reviewers, and managers have become more adept in the execution of their individual responsibilities. However, the Task Force Coordinator, Special Agent Attorney Daniel F. Toole, reports that he is not yet completely satisfied with Task Force operations. He has informed me that experience indicates training must be reinforced, quality control measures continually evaluated and attention given to seeking enhanced work practices.

The restructure of the Task Force, reported to you last week, has had positive results. Team Leaders, Relief Team Captains, Reviewers and Special Project Personnel are developing a base of institutional knowledge which has and will continue to increase with additional experience. This cadre will allow, if the need arises, orderly integration of additional personnel to the Task Force complement with little interruption to ongoing activities.

During the reporting period the Task Force completed work on 618 forfeiture files.

cc: Ms. Josephine M. Bustos
Program Evaluation Unit
Office of Planning and Evaluation

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UNITED STATES GOVERNMENT

memorandum

DATE: FEB 17 1987

February 17, 1987

REPLY TO ATTN OF: Dennis F. Hoffman
Chief Counsel

SUBJECT: Task Force to Review and Process Forfeiture Files
Weekly Status Report

TO: Mr. Thomas C. Kelly
Deputy Administrator

The Task Force has developed a new form, which I have approved, to respond to requests for equitable sharing of seized and forfeited property pursuant to Public Law 98-473 (the Comprehensive Crime Control Act of 1984). The form replaces two communications utilized to respond to sharing requests.

The new form allows response to any envisioned request made for equitable sharing. It has been constructed to permit Task Force Analysts, Reviewers, Special Project Personnel and Managers to more effectively and efficiently act upon and dispose of sharing matters. Additionally, the form provides clear and concise information to requesting agencies and federal entities needing to be appraised of the DEA's action taken in sharing matters.

The design of the form was coordinated with the Asset Forfeiture Unit (AFU). It will be placed into use by the Task Force and the AFU once sufficient copies can be made. I have attached a copy of the new form for your information.

Monday morning, February 8, 1987, was devoted to training. Peter J. Niessing, the Task Force Manager, reviewed forfeiture practices with all employees. Additionally, he resolved deficiencies noted in processing activities and attendant administrative practices. A question and answer session resolved misunderstandings in forfeiture file management. Task Force employees commented that the training session was valuable and future sessions should be planned as necessary.

Wednesday, February 11, 1987, the Kodak Ektaprint 85 Copier assigned to the Task Force malfunctioned at the start of the business day and repairs were not completed until after 5 p.m. This seriously impaired the movement of files processed and in need of duplication. Consequently, the copier work station was backed up on Thursday, February 12, 1987.

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The Task Force has articulated substantial justification for a second Kodak high speed copier. I am informed that this additional machine should be in place on or about Tuesday, February 17, 1987.

During the reporting period the Task Force completed work on 290 forfeiture files.

Attachment

cc: Ms. Josephine M. Bustos
Office of Planning & Evaluation

UNITED STATES GOVERNMENT

memorandum

76

DATE: FEB 24 1987

REPLY TO ATTN OF: Dennis F. Hoffman
Chief Counsel

Dennis

SUBJECT: Task Force to Review and Process Forfeiture Files
Weekly Status Report

TO: Mr. Thomas C. Kelly
Deputy Administrator

In last week's report I informed you that the Task Force had a proven need for a second high speed copier and that delivery of the machine was expected on or about Tuesday, February 17, 1987. The copier was delivered to the Task Force work area on the afternoon of Thursday, February 19, 1987. This additional copier will permit analysts and support staff employees to more efficiently and expeditiously accomplish necessary document duplication.

The Task Force Coordinator, Special Agent Attorney Daniel F. Toole, has reported to me that he attended a meeting of the Department of Justice Asset Forfeiture Committee on Friday, February 13, 1987. He occasioned to be at the meeting at the request of Asset Forfeiture Unit Chief William J. Snider. Mr. Toole told me that various members of the committee were aware of the Task Force mission and spoke in complimentary terms of its efforts. In particular, he mentioned remarks made by representatives of the Asset Forfeiture Office.

The Task Force directed its efforts toward managing more difficult files which often include forfeitures and petition decisions along with sharing requests from local and state enforcement entities. These kinds of matters require close scrutiny and multi-stage review. However, the Task Force also processed other categories of forfeiture files.

In the past week the Task Force Manager, Peter J. Niessing, devoted a substantial number of hours working with AI representatives on the CAP redesign project. Mr. Niessing's cooperative activities with AI are essential but result in a delay in the final review of Task Force processed forfeiture cases.

During the reporting period the Task Force completed its work on 334 forfeiture files.

cc: Ms. Josephine M. Bustos
Office of Planning & Evaluation

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5010-114

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UNITED STATES GOVERNMENT

memorandum

DATE: March 2, 1987

REPLY TO ATTN OF: Dennis F. Hoffman
Chief Counsel

SUBJECT: Task Force to Review and Process Forfeiture Files Weekly Status Report

TO: Mr. Thomas C. Kelly
Deputy Administrator

The efforts of the Task Force were hampered last week due to the snow emergency which closed Government offices on Monday, February 23, 1987. The remainder of the week was spent processing and reviewing complex forfeiture files.

I have been advised that the Task Force production rate is limited by the meticulous review required of files processed. Given present resources, the number of files reviewed and completed cannot be increased without sacrificing necessary quality control measures. Additionally, as previously reported, the Task Force Manager, Peter J. Niessing, is frequently away from the Task Force because of CAP redesign activities. Also, a Quantico training commitment resulted in Mr. Niessing's absence for the entire day on Thursday, February 26, 1987.

During the reporting period the Task Force completed work on 404 forfeiture files.

cc: Ms. Josephine M. Bustos

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GSA FPMR (41 CFR) 101-11.6
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* USGPO 1986-491-248/20641

ITED STATES GOVERNMENT

memorandum

78

DATE: MAR 9 1987

REPLY TO ATTN OF: Dennis F. Hoffman
Chief Counsel

SUBJECT: Task Force to Review and Process Forfeiture Files Weekly Status Report

TO: Mr. Thomas C. Kelly
Deputy Administrator

Task Force analysts have identified a significant number of forfeiture files wherein clerical errors were made in the initial newspaper advertisement or in the mailing of notice of seizure to appropriate parties. Accordingly, files of this kind must be readvertised and/or renoticed. This, in effect, precludes administrative forfeiture or equitable sharing of property, since the files remain in an active status and are suspended for forty days.

The Task Force Review and Special Project Staff, along with the Task Force Manager, have worked overtime most Saturdays in an effort to keep pace with forfeiture files processed by analysts. The Task Force Coordinator projects at least 330 overtime hours will be needed between March 29th and May 3rd to execute file review and approval functions.

Task Force Analyst Edward Wilson Bowers was released from his detail assignment on Wednesday, March 4, 1987, due to serious health problems and returned to his permanent position in the Operational Support Division. A replacement has been requested.

The Task Force is presently equipped with three (3) Panasonic KX-E700M electric typewriters and one (1) Xerox 820-11 word-processing system. Through Mr. William L. Neaves, Office of Information Systems, Operational Support Division, the Task Force has been furnished with two (2) Exxon 520 word-processing systems. This additional support will enable the Task Force to more efficiently accomplish its word-processing activities.

During the reporting period the Task Force completed its work on 389 forfeiture files.

cc: Ms. Josephine M. Bustos
Office of Planning and Evaluation

DT
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UNITED STATES GOVERNMENT
memorandum

DATE: MAR 16 1987

REPLY TO ATTN OF: Dennis F. Hoffman
Chief Counsel

SUBJECT: Task Force to Review and Process Forfeiture Files
Weekly Status Report

TO: Mr. Thomas C. Kelly
Deputy Administrator

The Task Force Coordinator, Special Agent Attorney Daniel F. Toole, has informed me that he has seen a significant improvement in the professional skills of personnel assigned to the Review and Special Projects Staffs. He has recommended that these Task Force employees be recruited for permanent transfer to the Asset Forfeiture Unit. It is his view that these individuals provide an excellent opportunity to increase the Asset Forfeiture Unit complement with skilled personnel who are capable of immediately handling heavy and complex case loads. I concur in this recommendation. However, successful recruitment of these individuals will depend greatly on promotional and career path opportunities.

As you are aware, additional DEA employees are being identified for detail to the activities of the Task Force. I have decided that these detailees can be best utilized by placing them in the Asset Forfeiture Unit to assist in the records activities being generated through cases processed by the Task Force. The Task Force Coordinator has suggested, and I agree, that to train new personnel as analysts, with the Task Force scheduled to conclude operations on May 3, 1987, would prove a detriment to ongoing Task Force activities. To effectively develop an employee as an efficient and capable analyst requires, based on prior experience, at least three to four weeks. Therefore, integration of new personnel, at this late date, would certainly slow processing and review activities. Nevertheless, as mentioned, these new detailees will be an invaluable resource in completing records activities generated by the Task Force. It is my intention that these employees will be directly supervised by the Forfeiture Counsel, Mr. William J. Snider.

The Task Force Support Staff has been reduced to two employees. This is as a result of Ms. Tracie A. Sandifer

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(REV. 1-80)
GSA FPMR (41 CFR) 101-11.6
5010-114
★ U.S.G.P.O. 1986-491-218/20061

being selected for promotion from GS-2 to GS-3 and transferred to the Freedom of Information Section effective March 6, 1987. Ms. Sandifer was detailed to the Task Force effective January 5, 1987, from the Operational Support Division. During her tenure with the Task Force, Ms. Sandifer was assigned clerical and typing responsibilities. Appropriate actions are being taken to seek a replacement for Ms. Sandifer.

On March 12, 1987, Ms. Tammy A. Paladino advised the Task Force Coordinators that she has been selected for appointment as an officer with the Capitol Hill Police Department. She presently anticipates her last day of employment with the DEA to be March 27, 1987. Ms. Paladino is detailed to the Support Staff as a clerk-typist from the Planning and Inspection Division. A replacement will be sought for Ms. Paladino.

Effective Friday, March 13, 1987, Dale Francis LaVelle Jr., a student co-op, assigned to the Task Force as an analyst from the Heroin Unit, Operational Intelligence Section, Office of Intelligence, Operations Division, resigned his employment with the DEA for personal reasons. For reasons enumerated above, a replacement for Mr. LaVelle, will be detailed to ancillary Task Force activities ongoing in the Asset Forfeiture Unit.

During the reporting period the Task Force completed its work on 448 forfeiture files.

cc: Ms. Josephine M. Bustos
Office of Planning & Evaluation

3/16/87
AFU/TF/DToole/mem/3-16-87
AFU/TF chron
DToole Chron
DPHoffman chron
PNiessing
WJSnider

3/16/87

UNITED STATES GOVERNMENT
memorandum

DATE: MAR 2 3 1987

REPLY TO ATTN OF: Dennis F. Hoffman
Chief Counsel

SUBJECT: Task Force to Review and Process Forfeiture Files
Weekly Status Report

TO: Mr. Thomas C. Kelly
Deputy Administrator

Mr. George Perkins Williams, GS-13, was detailed to the Task Force, effective March 16, 1987, from the Operational Support Division. Mr. Williams was selected for Task Force assignment as a replacement for Mr. Edward Wilson Bowers whose detail assignment was terminated on March 4, 1987, for reasons of health.

As I informed you in my memorandum of March 16, 1987, future detailees to the Task Force, excepting support staff employees, can be most effectively utilized by assignment to Task Force matters in the Asset Forfeiture Unit. Consistent with that decision, Mr. Williams has been given Task Force responsibilities in the Asset Forfeiture Unit, under the direct supervision of the Forfeiture Counsel, Mr. William J. Snider.

The Task Force Coordinator, Special Agent Attorney Daniel F. Toole, has advised me that morale is high and positive attitudes are evident among Task Force personnel. He reports that Task Force employees evidence comradery and are intent on accomplishing the goals expected of them.

I have attached for your information and review a copy of the Task Force Organizational Chart, revised effective March 19, 1987.

During the reporting period the Task Force completed its work on 393 forfeiture files.

cc: Ms. Josephine M. Bustos
Office of Planning and Evaluation

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(REV. 1-80)
GSA FPMR (41 CFR) 101-11.6
5010-114
[illegible]

UNITED STATES GOVERNMENT

memorandum

82

DATE: MAR 30 1987

REPLY TO ATTN OF: Dennis F. Hoffman
Chief Counsel

Dennis F. Hoffman

SUBJECT: Task Force To Review and Process Forfeiture Files; Weekly Status Report

TO: Mr. Thomas C. Kelly
Deputy Administrator

On March 24, 1987, five DEA employees, designated for Diversion Investigator training, were detailed as additional personnel resources to the Task Force. In accordance with my weekly report to you dated March 26, 1987, they have been assigned to Task Force activities ongoing in the Asset Forfeiture Unit. They have been organized as Team #3 of the Task Force and are under the direct supervision of the Foreiture Counsel, Mr. William J. Snider. Team #3 is being affored on-the-job training by senior Asset Forfeiture Unit personnel, which will enable them to accomplish critical follow-up activities on Task Force processed seizure files. These employees are being schooled to review and file documents in files being forwarded to the Task Force for management. Additionally, certain Team #3 personnel, detailees, because of prior work experience, are able to augment automated data record updates on Task Force generated records.

Miss Theodosia M. Stewart reported for duty with the Task Force Support Staff on March 24, 1987, as a replacement for Miss Tracie Ann Sandifer. Miss Stewart is skilled in the operation of an Exxon 520 word processing system. This will serve to expedite the Task Force word processing efforts.

Miss Tammy A. Paladino of the Task Force Support Staff, termined her employment with the DEA at close of business March 27, 1987. By memorandum of March 18, 1987 to the Assistant Administrator Planning and Inspection Division, a replacement has been requested.

I have attached for your information and review a copy of the Task Force Organizational Chart, revised effective close of business March 27, 1987.

During the reporting period the Task Force completed its work on 566 forfeiture files.

Attachment

cc: Ms. Josephine M. Bustos
Office of Planning & Evaluation

bcc: CPC

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(REV. 1-80)
GSA FPMR (41 CFR) 101-11.6
5010-114
☆ U.S.G.P.O. 1986-491-248/20641

UNITED STATES GOVERNMENT
# memorandum

83

DATE: APR 06 1987

REPLY TO ATTN OF: Dennis F. Hoffman
Chief Counsel

SUBJECT: Task Force To Review and Process Forfeiture Files; Weekly Status Report

TO: Mr. Thomas C. Kelly
Deputy Administrator

On March 31, 1987, Ms. Angela B. Crawford, who has been selected for Diversion Investigator training, was detailed to the Task Force. In accordance with my weekly report to you dated March 26, 1987, she has been assigned to Task Force activities ongoing in the Asset Forfeiture Unit. Ms. Crawford is an augumentation to Task Force Team #3, and under the direct supervision of the Forfeiture Counsel, Mr. William J. Snider.

This past week, the Task Force addressed forfeiture files which involve petition decisions and management of equitable sharing requests submitted to the DEA by local and state law enforcement entities. File management of these kinds of activities is time consuming, requiring most careful review. Additionally, the Task Force completed actions on files ripe for processing as uncontested forfeitures.

I have attached for your information and review a copy of the Task Force Organizational Chart, revised effective close of business March 31, 1987.

During the reporting period the Task Force completed its work on 476 forfeiture files.

Attachment

✓ cc: Ms. Josephine M. Bustos
Office of Planning and Evalution

UNITED STATES GOVERNMENT

memorandum

84

DATE: APR 13 1987

Dennis F. Hoffman

REPLY TO ATTN OF: Dennis F. Hoffman
Chief Counsel

SUBJECT: Task Force to Review and Process Forfeiture Files;
Weekly Status Report

TO: Mr. Thomas C. Kelly
Deputy Administrator

During the past week, the Task Force addressed a cross-section of forfeiture files. However, emphasis was again given to those records involving petition decisions and equitable sharing requests.

On Tuesday, April 7, 1987, and Wednesday April 8, 1987, the Task Force Coordinator and Task Force Manager attended meetings chaired by the Deputy Chief Counsel. These sessions, attended by management representatives of the Asset Forfeiture Unit, were convened to identify, discuss, and resolve, forfeiture issues of mutual concern to the Task Force and Asset Forfeiture Unit. The meetings were most productive and provided an appropriate forum to critically analyze the forfeiture activity of the Drug Enforcement Administration.

During the reporting period other Task Force completed its work an 534 forfeiture files.

✓cc: Ms. Josephine M. Bustos
Office of Planning and Evaluation

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5010-114
☆ USGPO 1986-491-248/20641

REPORTED DEA TASK FORCE RESULTS
Asset Seizure/Forfeiture File Backlog

Memo Date		Files Completed During Reporting Period
1-12-87		0
1-21-87		0
1-27-87		384
2-9-87		618
2-17-87		290
2-24-87		334
3-2-87		404
3-9-87		389
3-16-87		448
3-23-87		393
3-30-87		566
	Total to 3/30/87	3,826

A14 SATURDAY, MARCH 14, 1987 ... THE WASHINGTON POST

Law Officials Vow Better Handling of Seized Cash

By Mary Thornton
Washington Post Staff Writer

Federal law enforcement officials promised a Senate Governmental Affairs subcommittee yesterday that they will improve management procedures that have allowed hundreds of millions of dollars in cash seized from criminals to languish in office safes, evidence rooms and safety deposit boxes around the country.

In response to criticism from the General Accounting Office, Deputy Associate Attorney General James Knapp said the Justice Department yesterday notified U.S. attorneys and other department subsidiaries across the country that seized funds must be turned over to the U.S. Marshals Service for deposit within 60 days of a seizure or 10 days of an indictment, whichever comes first.

The only exceptions, he said, would be cash needed as evidence, generally because it contains fingerprints or narcotics residue. He said those exceptions would require the approval of Assistant Attorney General William Weld, who oversees the Criminal Division.

In testimony to the committee, the GAO charged that an investigation of the handling of forfeited cash by the Drug Enforcement Administration and the Customs Service had found inadequate accounting and security practices, as well as long delays in turning cash over to the Treasury Department.

At the time the GAO began its study last October, there was $96 million in cash at Customs and $124 million at DEA. The money makes up a portion of the assets forfeited to the government by major criminals, most of them drug traffickers.

But Customs Commissioner William von Raab disputed the GAO contention that the government could be earning money by investing the funds. He provided an analysis from the Federal Reserve System showing that there is no financial advantage since any "earnings" on the cash come out of the Federal Reserve.

Under a 1984 law, money seized in federal drug raids is supposed to be transferred into a special federal assets-forfeiture account, then dispersed to law agencies that participate in the narcotic busts.

Sen. Lawton Chiles (D-Fla), who requested the GAO report, complained yesterday that there has been a major lag in sharing the funds with local crime fighters. The GAO investigation, conducted between April 1986 and last month, found that instead of being transferred to that fund, the money often remained in field offices for years. The GAO found no evidence that seized cash has been stolen from field offices but said inadequate accounting "leave them open to the possibility of theft."

Wed. 3/25/87

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EDITORIALS

Socking drug money away

What does the federal government do with the wads of cash it seizes from illegal drug activities? The federal government does not stuff those bills in a sock and stick it under the mattress.

But it might as well.

Recently, U.S. Sen. Lawton Chiles, D-Fla., started questioning officials from the Drug Enforcement Administration and the Customs Service about the cash. The General Accounting Office had discovered that large sums of money were in the storage vaults of those agencies — instead of in interest-bearing accounts.

"We're not talking about petty cash," said Chiles. "For the Customs Department's 81 forfeiture cases involving deposit delays, $518,849 could have been earned on the money during the time the cash sat in Customs' vaults . . ."

Chiles, chairman of the subcommittee on federal spending, budgeting and accounting, made his remarks at a subcommittee hearing this month. But amazingly a U.S. Customs official told Chiles that the government would gain nothing by investing the money. Commissioner of Customs William Von Raab told Chiles that it really didn't make any difference if the money was invested or not. He produced a letter from Manuel H. Johnson, vice chairman of the Federal Reserve Board, to back him up.

In a very round-about way, Johnson said that if the Customs Department deposited the cash in an interest-bearing account, the Federal Reserve's monetary policy would cause the board to sell securities in the open market. That would reduce the amount of government securities, and, therefore, the earnings on those securities. "The net savings to the government resulting from depositing seized funds will approximate zero," said Johnson.

An amazed Chiles responded: "It seems to me that the government might as well keep its money in checking accounts." Indeed it does. If the policy is such that depositing seized money in interest-bearing accounts triggers the sale of other income-producing securities by the government, then the policy needs to be changed. But at least two agencies question whether the policy has been interpreted correctly.

The General Accounting Office does not agree with the Federal Reserve's statement. The Justice Department's official position is that the cash should be placed in a Treasury account where it might bring in interest to help either reduce the national debt or generate money for law enforcement.

It would seem that President Reagan needs to issue a major fiscal policy change. (He should not take that to mean that the money should be stuffed in a blue sock instead of a brown one.)

1 of 3

Treasury Sets Rules to Trace Drug Money

By Craig Webb
United Press International

The Treasury Department issued new rules yesterday to help track drug money as it passes through banks, but reserved judgment on its most controversial proposal—required reporting of any transaction over $3,000.

Most of the amendments to the Bank Secrecy Act will take effect in 30 days and the rest will start in 90 days, the department said. They affect not only banks but savings and loans and other financial institutions.

A senior departmental official said the changes enlist the help of state-of-the-art bank computers in the fight against drug dealers.

"We want to attack the money end of the narcotics business," said the official.

One of the most significant amendments will require banks to report to the government whenever it learns of any transaction in currency involving more than $10,000.

A version of that rule is in effect now, but drug dealers have been getting around it by having teams of money launderers put through transactions just below the triggering amount.

The amendment attacks that scheme by counting aggregate transactions.

"As long as 'a transaction in currency of more than $10,000' has occurred, it does not matter if it was done by one person with one account, several persons with the same account, or one person with several accounts," the Treasury Department said in explanatory notes accompanying its final rules.

The Treasury official said banks would be required to report such transactions only if they had equipment that enabled them to do so. The rules do not force banks to buy computers, but "if you have computer software that can tell you when you get over $10,000 aggregate, you've got to use it," he said.

The new rules amend the Bank Secrecy Act made public on Aug. 25, 1986. That act also called for financial institutions to report and record cash purchases of financial instruments—mainly checks and money orders—exceeding $3,000. But the department said yesterday it has decided to reserve judgment on that part of the act.

"After review of the comments [from financial institutions], it was apparent that there were several operational problems with the proposal," the department said in a statement.

The senior official said his agency has not decided whether to drop the idea, modify it or put it into effect as originally written.

U.S. Department of Justice

Drug Enforcement Administration

89

Date:

Dear

This is in response to your request filed with the Drug Enforcement Administration (DEA) seeking equitable distribution of the above-described property to your agency pursuant to Section 309 of Public Law 98-473 (the Comprehensive Crime Control Act of 1984). The paragraphs checked below are to inform you of the disposition of your request:

Section 1

Recommendations and Decisions

☐ The property has been forfeited administratively by the DEA pursuant to Title 21, United States Code, Section 881 and the DEA is authorized to enter a final decision concerning equitable sharing.

☐ The property has been forfeited administratively, however, its value dictates that the sharing decision be made by the United States Department of Justice and your sharing request, with the DEA's recommendation, has been referred to the Department for consideration.

☐ The property is or was subject to litigation in the United States Courts and the sharing request, with the DEA's recommendation, has been forwarded to the appropriate United States Attorney for consideration.

Section 2

Property Transfers

☐ The sharing request has been granted. Please contact the ________________ DEA Office to arrange for property transfer. You must pay an outstanding lien in the amount of $__________ before the property can be released. A copy of our letter to the lienholder is attached for your information.

(Rev. 2/10/87)

☐ The sharing request has been granted. Please contact the ______________ DEA Office to arrange for property transfer.

☐ Administrative costs in the amount of $__________ associated with the seizure must be paid before the property can be released. Your check in the amount indicated should be made payable to "U.S. Marshals, Account #15X5042." The check should be delivered to the ____________ DEA Office.

Section 3

Money Transfers

☐ Your agency will receive ___% of proceeds realized from the sale of the forfeited property.

☐ Your agency will receive ___% of proceeds realized from the sale of the forfeited property not to exceed $__________.

☐ Your agency will receive ___% of the forfeited currency.

☐ Authority to distribute funds being shared has been delegated to the United States Marshals Service. Accordingly, this office is notifying the Headquarters Office of the United States Marshals Service National Asset Seizure and Forfeiture Program to process this request for equitable sharing to your agency. Payment should be forthcoming shortly.

Section 4

Equitable Sharing Denial

☐ Your request cannot be honored because a petition has been received and a decision made to grant the relief sought by the petitioner. The property, therefore, is not available for government use or sharing.

☐ Your request cannot be honored because the nature of the property precludes its division between or among two or more federal or state/local agencies.

☐ Your request cannot be honored since the property is being put into official use by the United States Government.

☐ After careful review, a decision has been made not to honor your equitable sharing request.

Sincerely,

Asset Forfeiture Unit
Office of Chief Counsel

cc: DEA Offices:
D/O ____________
R/O ____________
U.S. Attorney: ______________
USMS NASAFP
DEA AO
CC Chron
Seizure File #: ____________

(Page 2 of 2)

Asset Forfeited Fund Expenditures

Phase: Proposal/Scoping (CCC)

Location	Start	S/D	Persons	Comp	Product	Issue	Coord.
GGD/FIA	4/87	50	2	7/87	-	7401	GGD Law Enforcement FIA Steering Committee
LARO	4/87	150	3	7/87			
		200					

Contact: Sib Correira, 634-4841

Program Background/Problems

The Comprehensive Crime Control Act of 1984 established the Justice and Customs Service's Asset Forfeiture Funds and it expanded federal law enforcement authority pertaining to the seizing of assets and forfeiture to the government. The 1986 Anti-Drug Abuse Act made several significant changes in forfeiture law, including authorizing expanded uses of the Asset Forfeiture Funds and removal of the "cap" on Fund expenditures which limited the amount that could be spent annually. Senator Chiles, Chairman of the Subcommittee on Federal Spending, Budget and Accounting is concerned over the significant increase in Justice's budgeted Fund expenditures--from $43 million in FY 86 to $96 million in FY 87--particularly in view of the internal control/management problems identified in our prior and current reviews of seizure/forfeiture programs. Staff from the Senate Judiciary Committee and Senator D'Amato's office met with us in January 1987 to express similar concerns.

Senator Chiles has a strong interest in Justice's and Customs Service's asset seizure forfeiture programs. Our prior request work for him on Customs Service conveyances and Customs Service's and Drug Enforcement Administration's management of seized cash led to congressional hearings in January 1986, and March 1987, respectively. A third assignment for the Subcommittee is currently addressing the U.S. Marshals Service's management and disposal of real estate and business properties. Chairman Chiles anticipates that completion of the Marshal Service and Asset Forfeiture Fund Expenditure reviews will provide audit coverage of the major segments of the government's asset seizure/forfeiture programs. Chairman Chiles plans to hold hearings in March/April 1988 to follow-up on previously reported program deficiencies as well as any deficiencies identified in our 1987 reviews.

Objectives/Methodology

We will identify and analyze the major categories of Fund expenditures and their relationship to Fund revenues. Our primary focus will be on Justice's Fund but we will analyze Customs Service expenditures and revenues to provide us with some basis for determining the reasonableness of Fund expenditures. Expenditure categories with significant increases or which significantly reduce the Fund's net proceeds will be tested to verify the applicability and validity of costs being charged to the Fund. For example, the proceeds realized from the sale of assets is shared with state and local law enforcement agencies which participated in the investigation or activity leading to the asset seizure. In FY 86, Justice transferred $17.1 million to such agencies and the FY 87 total should be even greater. We have noted several instances when 90 to 98 percent of asset sale proceeds was provided to the state and local agency and we intend to assess the reasonableness of Justice's sharing policies and procedures.

Staff Needs/Locations

GGD will provide the Group Director and Assignment Manager. Los Angeles will provide the EIC and two staff members. Los Angeles was selected because of its participation in the prior asset seizure/forfeiture work and the high volume of seizures in the region.

Critical Dates, If Any

For use in March/April 1988 congressional hearings.

Relationship to Issue Area Plan

This assignment is included in GAO's FIA long-range plan and is part of the GAO-wide effort led by the FIA Steering Committee and provided for under the AFMD issue area plan "Internal Control and Financial Management System Audits." This assignment addresses one of the government-wide initiatives identified by the Steering Committee--evaluating agency actions to correct reported material weaknesses in selected programs system or functions.